

SMALL BUSINESS AUTHORIZATIONS AND AMENDMENTS

MAY 16, 1983.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MITCHELL, from the Committee of Small Business,
submitted the following

REPORT

[To accompany H.R. 3020]

The Committee on Small Business, to whom was referred the bill (H.R. 3020) to amend the Small Business Act, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

THE PURPOSE OF THE BILL

The Committee's bill, H.R. 3020, is primarily small business job creation legislation and the necessary legislative rewrite of the Small Business Administration Fiscal Year 1984 and 1985 authorizations to support this initiative. It also remedies certain inequities which recently, over the strong objections of your Committee and, indeed, the entire Congress, have been forced upon small and minority business. This bill is premised on the Committee's belief that small business can and should lead the way in any turnaround in our economy. Small business is clearly our best single source of job creation. By far, most new jobs are provided by small businesses employing fewer than five hundred employees. Further, at a time when our Nation appears to be moving back toward economic health, that job creation small business contribution to an economic recovery must be recognized and supported. To accomplish these initiatives, the bill restructures SBA programs such as Direct and Guaranteed Business Lending, Pollution Control Financing, Surety Bond Guarantees, Export Assistance to small businesses, Minority Small Business Capital Ownership Development and the Development Company Program to make them go further and directs assistance to small concerns where it is needed most.

H.R. 3020 reaffirms the Committee's interest in the enactment of H.R. 860 (H.R. 6086 as passed the 97th Congress). Carried forward

from that legislation are: a requirement that SBA fully utilize its program levels; a prohibition against SBA's refusing to issue guarantees on pollution bonds simply because the project involves Industrial Revenue Bonds; a prohibition against SBA's arbitrarily refusing to approve surety bond guarantees on contracts eligible under statutory provisions; and a requirement that SBA follow the Administrative Procedure Act if it revises its regulations.

In accord with the Committee's decision to channel the limited amount of direct loans to areas of high unemployment and to make such loans subject to certain participation requirements, SBA's direct loan program has been extensively modified to meet criticism of the program default rate, and uniformity in application of labor surplus area procurements has been provided.

The bill codifies the current generally adhered-to practice of SBA's notifying the Small Business Committee before reprogramming any program levels, and requires notification to the Committee before implementing any reorganization. The bill clarifies the status of questions which have arisen concerning administrative restrictions on funding which SBA provides for its Development Company and Minority Small Business Investment Company Programs.

Finally, the Committee has responded to the continuing dissatisfaction of Members and the small business community with a problem created by changes in the Act made during 1981 Reconciliation which created unforeseen problems in the administration of the Federal Government's response to disasters. The bill would reinstate the Small Business Administration's economic disaster loan assistance program and would restructure the SBA's physical disaster loan assistance to provide homeowners and small business owners with more realistic help when they need it most.

INTRODUCTION AND BACKGROUND

Chairman Mitchell introduced H.R. 2132, H.R. 860, H.R. 863 and H.R. 2583, which form the basis for the great majority of this bill's provisions. Hearings were held by the Subcommittee on SBA and SBIC Authority, Minority Enterprise and General Small Business Problems on H.R. 2132 and H.R. 860 and other pending legislation which examined SBA authorizations, job creation and training legislation and necessary program changes on April 11 in Raleigh, North Carolina and on April 21, and 27, 1983 in Washington, D.C. Administration and private sector witnesses were heard.

The Subcommittee on SBA and SBIC Authority, Minority Enterprise and General Small Business Problems, held on April 19 and 20, 1983, in Washington, D.C. hearings on H.R. 863, a bill to amend SBA's Capital Ownership Development Program, which assists small business concerns owned by disadvantaged individuals by providing management, financial and marketing assistance as may be necessary to promote their competitive viability within a reasonable period of time. That bill would establish new criteria for program retention based upon the progress a firm has made to become competitive.

Also forwarded from the Subcommittee markup as amended were H.R. 403, by Mr. Smith of Iowa, which modifies certain SBA

program authorities and establishes an SBA equity purchase program.

After hearings on May 3, 1983 on disaster assistance, legislation rewriting the SBA physical disaster assistance programs for homeowners and businesses was, on May 4, marked-up and forwarded, as amended, to the full Committee: H.R. 2583 by Mr. Mitchell, H.R. 1375 by Mrs. Boxer, H.R. 1779 by Mr. Gejdenson and H.R. 592 by Mr. Gore. As considered at that hearing of May 3 and marked-up on May 4, legislation to re-establish SBA's economic dislocation disaster loan assistance was forwarded, as amended, to the full Committee: H.R. 620 by Mr. Kazen, H.R. 1593 by Mr. Bates, H.R. 1929 by Mr. Udall, and H.R. 2317 by Mr. de la Garza.

H.R. 860 as introduced by Chairman Mitchell is basically the reintroduction of H.R. 6086, the Chairman's bill as passed the House in the 97th Congress. Hearings on H.R. 6086 and other pending legislation had been held by the Subcommittee on SBA and SBIC Authority, Minority Enterprise and General Small Business Problems on April 28 and 29, 1982, at which the SBA Administrator and private sector witnesses testified. In subsequent action on May 12, 1982, the full Committee ordered H.R. 6086 as amended, reported to the House by a vote of 38 to 0. H.R. 6086 passed the House on June 8, 1982.

Marked-up pending legislation, as amended, was reported from your Committee's Subcommittee on SBA and SBIC Authority, Minority Enterprise and General Small Business Problems as a Committee print of an omnibus bill by voice vote of those present at the Subcommittee meeting held on May 4, 1983. The full Committee marked up this print on May 10, 1983, adopting a series of amendments on authorizations offered en bloc by the minority and a number of specific program amendments. The Committee in subsequent action on May 10 unanimously agreed to report the measure, as a clean bill, to the House.

This omnibus legislation involves matters of paramount importance to the Committee on Small Business, the Congress and the small business community. The members of the Committee were spurred by concern over the first quarter unemployment statistics which show nearly 16 million Americans are out of work. This is 15 percent of the civilian labor force and includes discouraged workers and other job seekers. The picture is not bright. Business failures in the first quarter of 1983 set a post World War II record. There were 7,312 failures in the first quarter of 1983 compared to 2,535 for the same period in 1980 and 5,707 failures for the first quarter in 1982. More businesses have failed in the first twenty-seven months of this Administration than in the previous five years.

At the same time, the Committee was mindful of business births during this time period. During this same time period, at least 245,000 businesses were created. These businesses have significant job creation potential that must be nurtured.

The recent public relations material, compiled at the express direction of Congress, and released by the SBA, on the State of Small Business, said that small businesses have weathered the recession better than big businesses. Some small businesses did well, particularly those in services, finance, and insurance where over 500,000 new jobs were created between July 1982 and December 1982. How-

ever, other sectors of the small business community have suffered greatly. In construction and wholesale and retail trade over 600,000 jobs were lost. However, in every line of business except construction, small business lost fewer employers by percentage or gained more (finance and services) by percentage than large business.

Taken together your Committee believes that this information not only supports but requires the Congress to be more concerned for the health of the small business sector of our economy. This data make clear the crucial role small businesses can and do play in our economy.

These new businesses mean jobs for our unemployed and revenues for the Treasury but only if they grow. The Committee is concerned that small businesses are still facing extremely high real short-term interest rates. Small business have historically paid interest rates about 3 to 4 percentage points above inflation. They are now paying rates 7 to 10 percentage points above inflation. These rates are far too high to allow many small businesses to make the strong comeback necessary to economic recovery, yet our Nation desperately needs their collective help. Minority and small businesses—the primary sources of jobs—can lead the way in human capital development and revitalize America if provided the chance to create jobs and survive the recession economy.

Toward this goal, your Committee has fashioned changes to and new emphasis for the SBA programs. The direct loan program has been altered dramatically to improve program performance; scarce resources have been targeted to the areas of greatest need and extended by requiring a match of funds; and successful local and State Federal partnership programs have been encouraged.

The Committee believes that it is small businesses that create the jobs—private sector, long term, self-sustaining jobs. The Committee believes this Nation needs these jobs and these businesses and has moved expeditiously to create an environment where small businesses can thrive.

AUTHORIZATION AND NEEDED PROGRAM CHANGES

RECOMMENDED AUTHORIZATIONS FOR FISCAL YEARS 1984 AND 1985

Prior to October 1, 1977, the Small Business Act authorized the appropriation of such sums as were necessary to carry out the provisions and purposes of the Act; and the Small Business Investment Act authorized the appropriation of specific cumulative dollar amounts to carry out the programs authorized by that Act. Effective October 1, 1977, open-ended authorizations for programs and payment of salaries and expenses were sharply curtailed. Public Law 95-89 amended the Small Business Act to specifically authorize the dollar amount of program levels for fiscal years 1978 and 1979; to authorize the appropriation of the dollar amount needed to carry out the program levels specified; and to authorize the appropriation of amounts necessary to carry out Small Business Act programs for which specific dollar authorizations are not provided. The Small Business Committee has determined, after substantial experience, that multi-year authorizations for the Small Business Administration are absolutely necessary. Such authorizations give

Congress, the Executive, and the small business community a clear indication of goals and priorities for a reasonable period of time and permit the Administration to know authorizing provisions prior to developing the budget proposals.

The Committee's hearings in this and the past Congress have shown that the administration's efforts to reduce drastically loan and other programs of the Small Business Administration have gone too far. Small and medium-sized firms continually need large amounts of credit to participate in the projected economic recovery and the country needs the thousands of new jobs these businesses will generate. Too often, the Committee has found that in areas of greatest need, some banks are far too interested in providing debt capital to large projects in high-growth areas. Although banks have a duty to their depositors and shareholders, they often neglect the small business community that surrounds them. This phenomenon, coupled with the major and continuing outflow of debt funds to foreign loans of questionable value, adversely affect small businesses which are unable to find another source of funding.

The Committee is in agreement that deficits must be controlled and reduced. However, the Committee also believes that by holding SBA loan programs, in the main, at 1983 levels the small business community would be better served than by making further cuts. The Committee cannot agree to the continued OMB policy of deferral and regulatory fiat it has forced upon the SBA. We believe that recent unanimous rejection of such policies by the House further reinforces this position. As an example of the Committee's firm view of this OBM approach, the Committee has prohibited SBA from bowing to this sort of unreasoned cost cutting by removing its authority to limit the surety bond program by arbitrary and restrictive rules. These rules, dropped when demand showed no need for cost cutting were not motivated by sound management and created very real problems in the construction industry.

The Committee has acted to insure that this area, dominated by small business, will have the where-with-all to expand with the recovery, receive its fair share of the road and bridge construction funds recently appropriated and create the jobs so desperately needed.

The unanimous decision of the Committee to prohibit OMB from mindlessly restricting SBAs use of pollution control guarantee funds is another example of the committees intent to provide an opportunity for small businesses to grow and help the economy to grow.

The Administration's policy which has reduced the number and dollar volume of SBA's direct and guaranteed loans by approximately fifty percent from 1981 levels must be modified to provide capital for small business.

Under our tax law, companies are authorized to issue bonds whose proceeds are used the finance pollution control equipment mandated by law. These bonds are very attractive to companies which need such financing as they can be structured as tax exempt and thus carry a lower interest rate. Small business, however, although technically eligible to participate in this program is effectively precluded for a myriad of reasons. This inability was correct-

ed by Congress when it established a pollution control contract guarantees program.

But the administration proposed to cut \$110 million from the congressionally approved 1983 program level of \$250 million. This was completely unacceptable and the House vetoed this proposal.

This program is a very valuable one for small business. In return for the SBA guarantee, the small business must pay a fee. These fees have been sufficient to assure that SBA has always made a profit on this program, now about \$10 million per year. The OMB action which prohibits an SBA guarantee on a bond involved in a project which includes a State tax-exempt bond prevents small businesses' use of the lowest available cost funds for the construction of Government mandated nonproductive facilities.

Another serious question of continuing interest to the Committee has been the peso devaluation crisis and its effects on the small business owners adversely affected by continuing difficulties in the Mexican economy and border commerce and the need to reinstate this program abolished by Gramm-Latta.

The Committee has held hearings on this subject, in Washington and in San Diego, California. Also the staff conducted extensive interviews with local public officials and small business owners in numerous communities along the Mexican border in both Texas and California.

The Gramm-Latta limits on response to physical disaster assistance to homeowners and businesses have not met the test according to extensive testimony from four Committee hearings, both in Washington and in the field.

REAUTHORIZATION RATIONALE AND NEEDED PROGRAM CHANGES

In addition to the necessary reauthorization process, the Committee is making certain program changes in the Small Business Act and the Small Business Investment Act of 1958.

Recently, the Committee has been aware of substantial criticism of the direct loan program. Some have argued that the high rate of past due loans, the small amount of funds and the substantial amount of paperwork necessary for these loans indicates that they should be abolished. The Committee carefully has followed SBA's attempt in the past several years to improve the quality of direct loans, but some would argue that the loss rate is still too high when compared to losses under the guarantee programs.

To make the changes necessary to reduce losses in this area and make the available funds go further, the Committee has decided to write a statutory requirement that an applicant for an immediate participation loan (i.e., general business, equal opportunity or energy) must provide an additional injection of funds.

The amount of the injection required is dependent upon the size of the requested immediate participation loan. If the loan is under \$100,000 in amount, at least an additional 10 percent of the funds is required; if the loan is between \$100,000 and \$200,000, at least 20 percent; and if over \$200,000, at least 30 percent. However, in order to encourage the participation of State and local governments or other development entities providing loans at less-than-market rate interest in the larger dollar size loans, the bill provides, for loans

over \$100,000, that if the outside contribution is from a State or local government or other development entity providing less than market rate loans, the amount of the injection need only be one-half of what would otherwise be required.

This additional injection, when derived from a local credit source, will provide a local lender judgment that will substantially reduce the work of the SBA. But further, this local injection will bring with it a local commitment to the small business that the far off SBA district office cannot provide.

Last, because these funds are indeed scarce, the Committee believes that the matching provisions will have the beneficial effect of making these funds go further by making more money available than would ordinarily be possible under a direct loan program.

By abolishing direct loans, except for handicapped loans, the Committee does not intend to signal its agreement with those who argue that the fund is so small as to be useless. Certainly the Committee does not urge that the fund be expanded to the size of the \$1.4 million direct loan program at the Department of Agriculture that makes direct loans available to the Nation's two million farmers. Rather the Committee believes that this SBA fund of \$300 million, when used in conjunction with private, State and local development efforts, will go a long way toward helping the most needy of America's 16.8 million small businesses and help to prevent further budget deficits.

The Committee also has added an additional feature to make the impact of this small fund more significant. In keeping with the employment legislation passed this year, these funds are targeted for job creation in the areas of greatest need. Utilizing that formula to better aim these funds, these participating loans are divided among the SBA district offices based upon the ratio of unemployed in each district as compared to the National unemployment total. During the last month of each quarter the restricted equal opportunity loan funds will be available to any otherwise qualifying borrower if labor surplus area based business demands have not used up this fund. In this way the Committee has targeted those most in need while not excluding other small business owners who can also create jobs.

By adopting this provision it is the intent of your Committee to channel job-creating, participating loan funds to those areas most in need. Since the new allocation formula is based on quarterly statistics, it is believed that sufficient flexibility exists to respond rapidly to changing economic conditions. Further, the passage of this provision will automatically insure that each State will receive its fair proportion of a scarce resource.

DIRECT HANDICAPPED ASSISTANCE LOAN

The Handicapped Assistance Loan (HAL) program authorized by Section 7(a)(10) of the Small Business Act has been vital to Goodwill and other organizations employing or owned by disabled individuals. These loans are available up to a \$350,000 limit under two classifications.

HAL-1 loans are available to nonprofit organizations employing handicapped individuals for not less than 75 percent of the man-

hours required for the production of commodities or in the provision of services. HAL-2 loans are only available to small businesses wholly owned by handicapped individuals. In addition to direct loans under the program, the SBA may guarantee loans made by a private lending institution to organizations employing or owned by disabled persons.

In many ways, Goodwills are small businesses and face all the problems that both small businesses and nonprofit organizations are experiencing. Yet, at the same time, Goodwills operate to fulfill the important social purpose of enabling disabled individuals to lead full and productive lives. Without the assistance of the HAL money, many Goodwills would not survive and the resulting loss of jobs for disabled people would result in costs to the taxpayers significantly higher than the Federal expenditures for the loans. Additionally, it should be noted that unemployment among disabled Americans is as high as 50 percent. The survival of Goodwills, capable of employing these individuals, is extremely important today.

The HAL program is an investment in the potential of disabled Americans who otherwise would not have found employment. This investment is returned many times over through the increase in earnings of disabled persons and the reduction in the cost to the Government of supplemental payments and benefits.

DIRECT ECONOMIC OPPORTUNITY LOANS AND PROGRAM CRITERIA

Pursuant to section 7(a)(11) of the Small Business Act, SBA is empowered to make or guarantee loans to small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals, or which are owned by low-income individuals. These loans, commonly referred to as Economic Opportunity Loans (EOL's), have the same terms, maturities and restrictions on the use of proceeds as SBA's regular business loans.

SBA's conduct of this program under the present administration has been erratic and incoherent. The Administration requested an EOL guarantee program level of \$100 million in fiscal year 1982 and \$176 million in each of fiscal years 1983 and 1984. The program level has been set for EOL guarantees at \$60 million in each of the three aforementioned years.

Last Congress, the Committee failed to understand the rationale supporting the Administration's proposal. During the first six months of fiscal year 1982, only \$4,378,000 of EOL guarantees were made. This is an annualized rate of less than \$9 million, and the Administration's request was to increase this program level to \$100 million for that year. Further, since the inception of the EOL program, it has never generated more than \$25 million in activity during any one fiscal year, and yet your Committee was requested to increase this program level to \$167 million in each of the next two years. EOL guarantee loan activity for fiscal year 1982 was \$14 million; thus far for fiscal year 1983 it is \$16.7 million.

SBA announced that it was about to undertake a new effort "with our regional administrators, with our banking partners and all involved in the system to improve our record in this area." Loan experience to date, however, has not shown any of the projected increase which was supposed to result from this effort. The

Committee is constrained to reevaluate the EOL program levels for succeeding years.

The omnibus Small Business Act amendments of the last Congress, H.R. 2998, as reported by this Committee, were made a part of the Gramm-Latta reconciliation measure which became Public Law 97-35. Contained therein was the Administration requested business loan consolidation provision which consolidated the former EOL provisions found in section 7(i) of the Act into a single 7(a) program. By that change, the former EOL lending guidelines as carried forward were not sufficiently emphasized.

Section 7(a)(6) of the Small Business Act requires that all 7(a) loans shall be of such sound value or so secured as reasonably to assure repayment. An exception to this rule is provided, e.g., in the case of loans to the handicapped, which allow any reasonable doubt about ability to repay to be resolved in favor of the applicant. The Committee again would apply this exception to small businesses that receive equal opportunity loans.

This change would soften slightly loan criteria for EOL type applicants separating them from general 7(a) criteria. The SBA has testified that this provision, responsibly administered, would not adversely affect the Agency's quality loan direction.

OPTIONAL LOAN REPAYMENT PLAN AND INTEREST RATE REVISION

Many small business concerns find it extremely difficult to service debt in the initial term of the loan. During this period of time, markets and products are both in a stage of development and, therefore, such a firm's cash flow is at a relatively low level. Moreover, because of high inflation and high interest rates many small business concerns cannot afford the cost of borrowing funds.

Small businesses need help to obtain debt financing at an initial cost which is reasonable and will allow the firm to increase its loan payments, over time, as its ability to generate cash increases. This concept is similar to the graduated payment mortgages now commonly in use to spur the housing industry. However, the Committee does not believe that SBA should subsidize interest rates, but instead the agency should be authorized to approve loans where interest only payments are required in the initial years of the term.

Participating lenders would need an incentive for arranging the loan repayment schedule in this manner, but such incentive need not be paid for by the SBA. A similar need for interest-only loans exists when SBA makes the loan directly. The Committee will require that SBA report in February of 1984 and 1985 on these initiatives to assure Congress will be able to monitor this action closely; the interest only provision is also subject to a two-year sunset.

The Committee also is acting to eliminate the administrative add-on provision which places the interest rate on SBA direct loans an additional 1 percent above the cost of money to the Government. SBA expenses are otherwise authorized and appropriated. There is no reason to continue any additional charge to the hard-pressed small business borrower.

GUARANTEED LOAN MAXIMUM AMOUNT

SBA may guarantee up to 90 percent or \$500,000, which is lesser, of a commercial loan by a participating financial institution to a small firm. By regulation, the maximum interest rate on guaranteed loans is $2\frac{3}{4}$ percent above the prime interest rate on loans with maturities of 7 years or more and $2\frac{1}{4}$ percent above the prime for loans with maturities of less than 7 years. SBA business loans may be for as long as 25 years.

Under present law, the maximum amount of a loan that SBA may guarantee is \$500,000. This amount was fixed by Public Law 94-305 (June 4, 1976). In view of recent high inflation rates and the Administration's recommendation, the Committee has determined to raise the \$500,000 ceiling. Loans made at the new \$750,000 maximum should be few, based on the average size of SBA business loans (\$127,000). Indications are that even at the \$750,000 limit, SBA will not increase pressures on limited budget authority, but will provide an emphasis on participation loans requiring the larger amounts of non-Federal funds.

SMALL BUSINESS INVESTMENT COMPANY PROGRAM

Congress created the Small Business Investment Company (SBIC) program in 1958. SBICs are investment firms licensed and regulated by the Small Business Administration. They provide equity capital, long-term loans and management assistance to new and growing small business concerns. SBICs are privately-organized, privately-capitalized and privately-managed.

Over the past twenty-four years, SBICs have been authorized to obtain money for the Federal cost of borrowing funds. They then add five or six percentage points to the cost-of-money and make it available either in the form of long-term debt or long-term debt accompanied by warrants which entitles them to a share of the small business being financed, or possibly by simply acquiring up to one-half of the ownership of the business being helped.

At the present time there is approximately \$1 billion in assistance to SBICs outstanding. In exchange for this Federal money, the SBICs have some \$1.3 billion in assistance to small businesses which is also outstanding. Thus, the Federal Government realizes almost a one-third increase in the financial assistance being provided to the small business community by channeling its funds through the SBIC industry rather than channeling it directly through small businesses.

MINORITY ENTERPRISE SMALL BUSINESS INVESTMENT COMPANIES (MESBICS)

Minority Enterprise Small Business Investment Companies (MESBICs) are SBICs which specialize in providing equity funds, long-term loans, and management assistance to small business concerns owned by socially or economically disadvantaged persons. MESBICs are governed by the small regulation as SBICs, with some modifications.

The MESBIC agrees to make investments solely in small business concerns which will contribute to a well-balanced national

economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Under the Small Business Investment Act of 1958, MESBICs are eligible for up to four tiers of leveraging from the SBA on their invested private capital. This private/public sector partnership serves to maximize the pool of funds available for investment in the minority small business community.

Between 1974 and 1982, the MESBIC industry invested over \$260 million in 4,274 minority businesses. The jobs created or maintained by those investments in the latter half of that period alone totalled over 52,000. In 1982, MESBICs invested \$46.2 million in 750 businesses, drawing an additional \$93 million to minority business investments from other private sector sources. Increasing the authorization for MESBICs in fiscal years 1984 and 1985 is an important statement of support for the MESBIC industry and stresses the Committee's belief in the importance of policy continuity regarding the industry.

In recent years, the industry has faced a variety of problems with availability and access to leverage. For example, in 1979, there was an extreme shortage of leverage dollars and many prospective business opportunities were not able to be funded. In 1980, after considerable agony, the industry appropriation was increased and MESBICs across the country were able to draw down needed funds from the SBA. In 1981, the MESBIC industry was put in the position of being totally stricken from the budget. It took months of hard work and strenuous effort by the industry to re-install the program funds to the budget. The Administration has recommended an increased level of funds for the MESBIC program for fiscal year 1983. Congress agrees with that recommendation. The point with this recitation of history is that the industry is on a veritable roller coaster from year to year. MESBICs make long term investment decisions, and in order for the industry to continue developing long term investment strategies and seek out additional private capital, there must be continuity and an understanding of the public sector's role in the total equation. The partnership concept can only function efficiently if the public sector partner realizes that the leveraging of funds must be accomplished in a timely and business-like manner. The increased efficiency will allow MESBICs the opportunity to make increased job creating investments in a wide variety of industries.

SPENDING LEVELS

The Committee's statement on authorization for SBA programs details the present approach which the Committee believes provides more certainty in a way small business assistance is administered, coupled with effective oversight. The Committee continues to believe that multi-year authorizations are the proper approach, giving Congress, the Executive, and the small business community a clear indication of goals and priorities for a reasonable period of time. The Committee believes that this budgeting method is the only way to assure that the Congressional intent in the Small Business Act will be strictly adhered to by SBA.

Unfortunately, specific program authorization levels and appropriations may not alone provide assurance that congressionally-mandated objectives will be met. Specifically, the agency (sometimes at OMB's direction) has over this period adopted a series of administrative actions purposefully designed to lessen the demand for its programs below levels approved by Congress and the President.

Another uncertainty is the commitment of SBA to use the full amount of the guaranteed lending authority available through the Congressional authorization and appropriation process. Under existing law the statute specifies the maximum amount of loans and guarantee assistance which may be made available but does not require any minimum.

The uncertainty remains that SBA, by regulation, could reduce the ceilings on interest rates, on its guaranteed loans as it has proposed in the past.

Although this proposal was not implemented, such action could result in the majority of banks refusing to participate in the program.

Other examples of the Committee's concern would include the same sort of action which SBA recently took to curtail the surety bond guaranty program and the pollution control guarantees program. However, this legislation addresses these directly.

In summary, action is necessary to require SBA to refrain from administrative action which would make unavailable the amount made available by law and agreed to by the President and the Congress unless there is a lack of qualified applicants for assistance.

MESBIC FINANCING

Under the Small Business Investment Act of 1958, as amended, MESBICs can receive up to four tiers of SBA leveraging on their "private capital." In an effort to promote the MESBIC industry, in its regulations the SBA allows for the inclusion of "nonprivate funds" in its interpretation of private capital for leveraging purposes.

Based on this provision over several years, public funds, accompanied by large amounts of private capital, were being invested in the MESBIC industry. These private funds were largely dependent for their effectiveness on the leverageability of the public funds they complemented. By mid 1980, over \$17 million in Government funds, in concert with over \$10 million in private capital, had been invested in the MESBIC industry as a result of regulation allowing leveraging against public funds.

In July 1980, public funds leveraging was suddenly halted by a decision of the Comptroller General. The decision claimed the leveraging of MESBICs Federal funds to be illegal, except in the case of specific statutory language to the contrary. This decision was challenged and confirmed by a later Comptroller General's decision in January 1981. Thus the potential utility of over \$100 million targeted to the small business sector has been jeopardized.

Therefore, for those MESBICs which prior to the GAO ruling had relied upon the use of public funds, legislation is necessary to clarify that the words "private capital," as used in section 303(c)(2)(iii)

of the Small Business Investment Act of 1958, include not only capital which has been raised from private individuals, partnerships or corporations, but also, for purposes of leveraging, non-private or public funds such as, funds received from the Department of Housing and Urban Development, the Economic Development Administration, the Federal Railroad Administration of the Department of Transportation, and the Community Services Administration among others. This clarification is a one-time change and applies only to those MESBICs which relied to their detriment on earlier policy.

POLLUTION CONTROL FINANCING

Congress recognizes that small businesses, because of their generally limited credit history and the smaller size of their financing requirements, often are unable to obtain long-term, low-interest rate financing through revenue bonds. The high cost and *nonproductive* nature of *required* pollution control facilities are often more than small businesses can be expected to handle. Therefore, Congress authorized SBA, commercial banks and State authorities to make long-term low-interest financing available to well-established small businesses in much the same manner the corporate giants obtain financing for pollution control facilities: through sale of tax-exempt, pollution control revenue bonds issued by a State or municipal authority. This is made possible through SBA's guarantee of the small concern's obligation under a contract involving the facility.

Through this program, small business obtain long-term (up to 30 years) and low-interest rate financing for required pollution control facilities.

On December 31, 1981, SBA announced its decision no longer to approve guarantees for contracts which involve projects constructed with proceeds of tax-exempt Industrial Revenue Bonds. Despite Congressional statements that this was contrary to the intent of the statute, SBA has consistently refused to restore the availability of such guarantees for tax-exempts.

The SBA Pollution Control Guarantees Program has played a vital role in minimizing the discrimination small businesses have traditionally faced. Investors view these concerns as high risks and are therefore reluctant to provide them with capital to finance pollution control facilities. By making guarantees available to these firms, the SBA program has enhanced the financial attractiveness to lenders of providing financing to small businesses, thereby enabling them to comply with environmental requirements.

The restoration of the guarantees contemplated by the provisions of this legislation is more critical now than at any time since those guarantees were authorized in 1976. The needs of small businesses and the communities in which they produce and serve for installing pollution abatement facilities and equipment and for disposing of wastes have continued, and the advent of a more targeted national focus on the control of toxic and hazardous wastes and substances since the original enactment of this program indicates that those needs may increase.

From the date this prohibition was put in force, approximately fifteen months, only five of the original 100-plus applicants were able to proceed with some form of taxable financing guarantee. That reality has had no impact within the Administration in persuading it that its policy is wrong.

Since its inception, this SBA Guarantee Program has been a revenue raiser through the fee SBA levies on businesses using the guarantee; it is self-sustaining and fosters economic activity throughout the country.

Unfortunately, the SBA and OMB have refused Congressional directives to heed that tax-exempt pollution contract guarantees are of vital importance to the survival of small businesses. It is important to note that in many instances the small concern's net worth is exceeded by the costs of these pollution control facilities. A business that does not have the assets to use as collateral for a taxable loan will have to close its doors or be in non-compliance with environmental mandates. These alternatives are unacceptable. Therefore, the Committee must legislatively correct the misunderstanding of the purposes of the program.

SURETY BOND GUARANTEES

To restore certainty and continuity to another SBA program, the Committee is also forced to express its disapproval of the recent regulatory action whereby SBA reduced the maximum allowable amount of guarantees made through its surety bond guarantee program.

Although the statutory maximum for such guarantee is \$1 million, SBA on January 15 administratively lowered this limit to \$250,000 or 125 percent of any previously guaranteed contract, whichever is less. This action was done without prior notice to or consultation with the Congress and has been defended by the agency as part of the administration's efforts to lower overall Federal guarantee activity.

During fiscal year 1982, Congress had approved a \$1.2 billion program level for surety bond guarantees. The administration had requested that this be lowered to \$1.08 billion, which is the same amount SBA proposed for fiscal years 1983 and 1984. Congress rejected the administration's request. As a preliminary step in the fiscal year 1984 budget process, the Committee recommended to the Budget Committee that sufficient guarantee authority be provided for a \$1.6 billion program, the level set for the fiscal year 1984 and 1985 authorizations in this legislation. This program is particularly important to small minority contractors who need such bonds in order to be eligible to bid on the multi-billion dollar set aside in the highway gas tax bill (P.L. 97-424).

SBA's restrictions on the size of surety bond guarantees will create a hardship for many small contractors. The Committee, in addition to authorizing a program level sufficient to make such restrictions unnecessary, has determined further legislative action is necessary to avoid further uncertainty. This must be done despite the fact that on April 1, SBA eliminated the \$250,000 cap and increased the percentage limitation from 125 percent to 200 percent.

Action is being taken to expressly prohibit SBA from limiting the maximum amount of a bond below the statutory limit and from utilizing a percentage increase limitation on surety bonding; that action does not, however, preclude SBA from evaluating each application on its merits and approving guarantees in lower amounts where the individual application should receive such treatment.

SMALL BUSINESS COMMITTEE NOTIFICATION

In furtherance of the Committee's oversight responsibilities under Rule X of the House of Representatives and in the interest of SBA program certainty and continuity, two procedural steps need to be implemented.

With respect to reprogramming requests that are deemed to be necessary, the Committee expects to follow closely the reprogramming procedures here outlined.

The Chairman of the Appropriations Subcommittee on the Department of State, Justice, and Commerce, the Judiciary, and Related Agencies, in addition to the Chairman of the House and Senate Small Business Committees will be notified in writing a minimum of 15 days prior to—

(1) Reprogramming of funds, whether permanent or temporary, in excess of \$250,000 or 10 percent, whichever is less, between programs or activities. This provision is also applicable in cases where several activities are involved with each receiving less than \$250,000. In addition, notification of reprogramming actions which are less than these amounts is expected if such actions would have the effect of committing the agency to significant requirements in future years.

(2) Creation of new programs or substantial augmentation of existing programs.

(3) Relocation of offices or a substantial number of employees.

(4) Reorganization of offices, programs, or activities.

The Committee also expects that any items which are subject to interpretation will be reported.

Second, the Committee desires to be kept abreast of any agency internal reorganization as has been past practice and also any overall executive branch reorganization which would affect the Small Business Administration.

LABOR SURPLUS AREA PROCUREMENT

Under section 15 of the Small Business Act qualified small business concerns participate in their fair share of contracts for goods and services from the Federal Government.

The Committee continues to be concerned regarding maintenance of this fair share and that procurement dollars be used in a manner best calculated to yield the highest possible return to the taxpayer. In order to achieve this purpose, it is necessary that procurement funds where feasible be positively correlated with job creating potential and, that opportunities for economic stimulus as measured by the number of unemployed be maintained.

Small businesses create more of the net new jobs than large firms do. This impact is even higher in areas of economic distress,

small concerns can provide as much as 80 percent of net new jobs. This bill reinforces Committee action which directs all Federal agencies to target contracts and small business set-asides to firms in or near areas of high unemployment according to a hierarchy of need, with small businesses in labor surplus areas at the top of the list. It also would direct agencies to encourage the award of subcontracts by the same targeting criteria.

Also section 15 of the Small Business Act contains a number of technical errors which could be a potential source of confusion for program administrators. Because of legislation passed subsequent in time to section 15, there is a question regarding the applicability of its provision to all agencies of the Federal Government. There is a clear need, therefore, both to cure the technical deficiencies contained in present law and to dispel any ambiguity regarding the scope of this section's applicability.

DEVELOPMENT COMPANY WORKING CAPITAL

At the present time small businesses cannot obtain working capital through development companies. This means they must go elsewhere or go through a perpetual squeeze on capital. The inclusion of working capital in 503 funded projects will meet the critical need for "expansion" capital.

Each fixed asset expansion of a business demands more inventory, more accounts receivable, and a larger payroll. Prudent lending principles require consideration of these items. To exclude them from this program creates unnecessary obstacles.

The Committee recognizes that all small businesses need working capital and that a development company, with its full time professional employees, should be able to serve as a one-stop financial center.

Providing working capital makes the small business loan package more workable and makes the capital asset loan supplies by the development company more secure.

SOURCE OF DEVELOPMENT COMPANY FUNDS

When Congress established the 503 Development Company Program in Public Law 96-302 certain requirements were set for program eligibility. To qualify for this program, a development company must have: (1) A full-time professional staff with capability to package, process, close and service its loans; (2) Professional management ability, including adequate accounting, legal and business-servicing abilities, (3) A board of directors or membership, which meets on a regular basis to make management decisions for the company including decisions relating to the making and servicing of loans by such company.

Income received by the development company through its assistance to small businesses cannot exceed that necessary to repay with interest the debenture it issues, to pay taxes and insurance, and to recover administrative costs.

There are 378 Certified Development Companies in forty-eight states. Statistics show 970 development company loan approvals, totaling \$177.2 million since the beginning of the program which, at 40 percent of project cost represents between \$450-\$500 million of

investment in growing profitable small businesses. This is a large contribution to what the economy needs most of all, capital investment by growing profitable small and medium sized businesses.

The Committee recognizes the differences in funding provided through 503 type projects, projects funded by the SBIC program, and projects funded in the private venture capital business.

Venture capital opportunities are the cream of the crop. These are mostly high-tech start-up businesses. There are a relatively very few potential investments in number; but are very high potential gains for investors. They are very risky but also potentially very profitable. This sector is the domain of totally private venture capitalists.

Risk capital investments represent a greater variety of projects that are in part financed by small business investment companies, banks and other sources of investment. These projects typically are expansion and start-ups and are not as risky as venture capital projects.

The third and by far the largest group of investments, is labeled expansion financing. This is the domain of the 503 program. These are the existing businesses that do not have prospects for the extraordinary growth necessary to interest venture capitalists. Also most SBICs are not interested in long-term, fixed asset financing.

Many small business do not benefit from the venture capital industry or even SBICs. There are existing businesses seeking capital for expansion. The 503 program can help this far greater number of businesses however, evidenced by its widespread application and rapid growth in communities across the country. The Committee recognizes the importance of the 503 program to a large number of small businesses and the most important issue now facing us, the creation of permanent private sector jobs.

These requirements resulted in a greater commitment of development companies to the small business community.

By statute, guarantees on behalf of development companies under section 503 may be used to provide funding only for up to one-half of project cost. SBA has chosen to refuse guarantees if the non-SBA half is partially or wholly funded by Industrial Revenue Bonds. This arbitrarily frustrates Congress' attempt to provide desperately needed capital to small concerns.

The intent of Congress was expressed in the conference report accompanying Public Law 96-302, which established the section 503 program, wherein it was clearly stated that SBA should not disapprove the guarantee of any debenture or any loan made with the proceeds of a debenture issue, solely because the proceeds would be used in a project whose other sources of financing include, or are collateralized by tax-exempt industrial revenue or development bonds. Until changed by OMB, SBA policy had been to participate in projects whose other sources of financing include or are collateralized by tax-exempt obligations. Further, loans made with the proceeds of 503 debentures were subordinated to such obligations.

The Congress was forced to Act to reinstate its temporarily intentions in the recent \$4.6 billion "Jobs Bill", P.L. 98-8 signed into law on March 24, 1983. That bill provided two critically important elements for the 503 program: (1) \$100 million in new guarantee

authority for fiscal year 1983, and (2) language which expressly permits the proceeds of 503 debentures to be subordinated to tax-exempt bonds.

It is necessary to amend the Small Business Investment Act of 1958 to prohibit SBA from using the source or nature of the other funds as a criteria for eligibility.

PROCUREMENT FROM HANDICAPPED ORGANIZATIONS

Section 15(c) of the Small Business Act allows organizations eligible to receive Handicapped Assistance Loans under the Act to bid on small business set-aside contracts. Three conditions are imposed: (1) the eligibility is limited to fiscal years 1981, 1982 and 1983; (2) a \$100 million cap is placed on the amount of contracts that could be awarded in each of the three years; and (3) in the event of a compliant of adverse impact on a small business, the Executive Director of the Committee for Purchase from the Blind and Other Severely Handicapped and the Administrator of SBA must act to resolve the dispute.

Section 116(c)(2) of Public Law 96-302 required SBA by January 1, 1982, to submit to Congress a report on the impact of workshop participation in the set-aside program on for-profit, small businesses. The report determined: the \$100 million limit appeared to be an adequate ceiling; a total dollar value of only \$723,000 in contracts has been reported to SBA; an absence of complaints from small businesses; and no measurable economic injury to for-profit small businesses.

According to informal records kept by the National Industries for the Severely Handicapped, the aggregate amount of small business contracts successfully bid by workshops has been less than \$6 million over the 2½ year period of this program.

Given the continuing small volume of contracts awarded to workshops, lack of documented compliants and the conclusions reached by the Small Business Administration, reauthorizing organizations eligible for HAL loans to bid on Federal contracts set aside for small businesses for another term is warranted.

The Committee, however, intends that yearly reports be reinstituted in order that any adverse effects will be readily apparent.

SIZE STANDARDS AND PUBLICATION OF TIMELY REGULATIONS

Congress established a broad definition of small business in the Small Business Act of 1953: "a small-business concern . . . shall be deemed to be one which is independently owned and operated and which is not dominant in its field of operation. In addition to the foregoing criteria the Administrator, in making a detailed definition may use these criteria, among others: Numbers of employees and dollar volume of business. . ."

Establishing "size standards," i.e., the precise specification of "small," is delegated to the Administrator of the SBA. The size standards determine a company's eligibility for SBA assistance, usually in the form of direct or guaranteed loans; management or technical assistance; or special set-aside programs for minorities, the handicapped or other economically disadvantaged entrepreneurs.

The existing standards have often been criticized as confusing and lacking a comprehensive, underlying logic. The complex rules often leave a business qualifying for some programs, but not others, because eligibility may vary from one program to another.

Changes to the size standards have been the center of controversy since 1979, when SBA officials decided the hodge-podge of rules needed revamping. If accomplished, the revisions will be the first major changes since the 1950's.

In March 1980, SBA proposed a revision to its size standards which was made inoperative by Public Law 96-481 which prohibited any size standard change until March 31, 1981.

In March 1980 proposed rulemaking SBA officials decided to use a single measurement of size the number of employees-with limits differing by industry-based on an assessment of competition.

Throughout this revision procedure SBA has maintained that promulgation of rules and regulations regarding size standards is not mandatory under the Administrative Procedure Act. But they have voluntarily brought themselves under the Act by regulation. However, the safeguard is needed that any size standard changes be in accordance with the Administrative Procedure Act.

The next proposal was published on May 3, 1982, as a "Second Advance Notice of Proposed Rulemaking." The latest in this series of proposed size standard revisions spanning the last three years was published for comment on May 6, 1983.

IMPLEMENTATION OF STATUTES

The Committee wants to make sure that SBA continues to follow the APA in setting new size standards, i.e., publishing the notice of proposed rulemaking for extensive public comment. Full public participation and congressional scrutiny would thereby be assured.

It has recently come to the Committee's attention that the agency has failed to revise regulations governing business loan assistance to conform with major statutory revisions in that program made by Public Law 97-35. In particular, no new regulations have been published to implement provisions extending the maximum maturity of business loans and to clarify the agency's refinancing authorities. Also, no conforming changes have been made in the agency's Standard Operating Procedures to reflect these important statutory revisions, although SBA provided notice to field offices that Public Law 97-35 had been enacted.

As a result of the agency's failure to make these revisions, field offices are operating under the provisions of prior legislation and small businesses are being deprived of assistance intended to help them cope with the effects of high interest rates and the recession.

Public Law 97-35 was enacted 20 months ago. This delay in revising regulations raises the question whether the agency has selectively decided to ignore these provisions of law inasmuch as other revisions mandated by Public Law 97-35 were quickly implemented.

The Committee believes that the agency should be required to implement promptly newly-enacted laws with full program regulations in conformity with that law.

EXPORT PROMOTION

For some time the Committee has been interested in export promotion on behalf of small businesses. Small firms are very often reluctant to explore foreign markets as a source of additional sales. The reluctance stems from not knowing where to find foreign companies that want to buy the things that they produce. They fear the mechanics of selling, shipping, and particularly the mechanics of getting paid in foreign markets.

The Committee has considered ways to help small business owners increase their export opportunities and improve their access to the world marketplace. One important thing we have seen is the success that many of our State and local governments have had in their efforts to get small business people into the exporting market.

The Committee proposes an International Trade Fair provision which would authorize SBA to provide financial assistance to small business exporters to participate in international trade fairs or to cosponsor such events for the benefit of small business concerns having export potential.

Such an international trade assistance provision has received the endorsement of the National Governors' Association's International Trade and Foreign Relations Committee, chaired by Governor Bob Graham of Florida.

GUARANTEED INTEREST RATES

Well over 90 percent of SBA's business lending activity is accomplished through the guaranteed loan programs. Typically, these programs provide for a 90-percent guarantee on loans extended to small concerns by banks and other financial institutions. The statute provides that the interest rate charged by these lenders must be legal and reasonable "but shall not exceed a rate prescribed by the Administration." SBA, therefore, has used its general rulemaking authority to promulgate, from time to time, maximum allowable interest rates.

For the last several years, this maximum has been set at up to 2¼ percent over low New York prime on loans having a maturity of under seven years and up to low New York prime plus up to 2¾ percent for loans having a maturity of seven years or longer.

In the past, SBA published a proposed rule which, if made effective, would have eliminated the 2¼ to 2¾ percent "spread" over prime. As a result of this publication, your Committee received numerous complaints from the banking community. These institutions argued that elimination of the spread would reduce the yield on SBA guarantee loans to a point where they would no longer become an attractive bank investment. Since there are already ample investment opportunities competing for bank funds, there is little economic incentive to participate in a government program which would yield a lower rate of return than available from these other types of investments. Many banks, therefore, asserted that they would abandon the SBA program if the proposed regulations were adopted.

While your Committee is, of course, deeply concerned about today's high interest rates and its devastating effect on small busi-

ness, it does not believe the remedy to be reducing the interest rates on SBA guaranteed loans. While this may have some surface attraction, it would result in a far more serious problem—the unavailability of credit to small business.

Even though the proposed SBA regulation eliminating the spread has not been adopted, its promulgation alone has caused a “chilling effect” on bank participation in the guarantee program. Banks are hesitant to adopt internal procedures and spend the time, money, and effort to develop and process potential SBA guarantee applications when they have little or no assurance that the “rules of the game” will not be changed in midstream. To alleviate this concern and to provide the necessary assurance that some continuity will be preserved, the bill as considered by the full Committee had a provision to freeze legislatively SBA’s present interest rate maximum for at least one year. This would have also been accomplished last Congress by H.R. 6086, which passed the House.

However, the Committee deleted this provision upon the Administration’s pledge to notify the Committee at least sixty days prior to taking any action on guaranteed interest rates.

It is expected that at least sixty days notice will be given prior to sending any advance notice of proposed rulemaking for publication in the Federal Register.

DISASTER ASSISTANCE

I. ASSISTANCE TO VICTIMS OF PHYSICAL DISASTERS

The Small Business Administration provides loan assistance to disaster victims, including homeowners, businesses, and nonprofit institutions. When disaster strikes it is important that damaged property be replaced or repaired and businesses be provided with adequate working capital for recovery as soon as possible. SBA disaster loans serve this purpose and minimize disruptions of jobs, business revenues, and taxes. In so doing, they play a vital role in restoring the economic health of a disaster-stricken community, often making the difference in the survival of businesses necessary to that recovery.

During fiscal 1981, 47,261 disaster loans were made for more than \$1.47 billion to businesses, homeowners, and others affected by hurricanes, tornadoes, earthquakes, flooding, windstorms, hail, droughts, mudslides, fires, a volcano, and other disasters. During fiscal 1982, 9,784 disaster loans were made for more than \$236 million.

During the 97th Congress, major revisions were made in SBA’s disaster loan program, both by statute and by regulation. These changes began early in 1981 when the administration took the following actions:

1. It withdrew a pending request for \$780 million in supplemental disaster loan funds for SBA;
2. It suspended on March 10, 1981, the funding of all SBA disaster loans, and then published regulations on March 19, 1981, severely restricting eligibility, including (a) the elimination of any eligibility for those businesses (including farmers) able to obtain alternative financing, (b) the limitation of the

amount of the loan for those businesses remaining eligible to 60 percent of losses, (c) the imposition of a \$100,000 ceiling on economic injury loans, and (d) the elimination of all funding for "nonphysical" disaster loans; and

3. It requested legislation which would have eliminated eligibility for both home and business disaster borrowers with personal resources or alternative sources of financing, and which would have raised interest rates on loans to those without alternative sources of financing to a formula rate representing the government's cost of money plus 1 percent (approximately 15 percent at that time).

These actions were taken without prior notice or consultation with the Committee. The March 19th rules changes were particularly inequitable, as they applied to all pending applications not yet acted upon, with the result that victims of the same disasters were treated differently. Although a large number of loan applications were pending when these restrictions were imposed, the administration refused to change its position, justifying it on the grounds of budgetary necessity.

Shortly after the administration took its unilateral actions, the Congressional budget process forced the Committee to consider statutory changes in the disaster loan program. The First Concurrent Budget Resolution of 1981 contained instructions requiring the Committee to effect major savings in the programs under its jurisdiction. It was impossible to comply with these requirements without affecting the disaster loan program.

The Committee considered various plans by which these savings could be made, including legislation which the administration had requested. As part of the Committee's examination of the potential effects of the proposed legislation, the staff conducted interviews with victims of recent disasters who had loans approved prior to the administration's rules changes. During April of 1981, the staff took sworn depositions from 100 of these victims in Omaha and Grand Island, Nebraska, and in San Diego, Vista, Burbank, and San Bernardino, California. The witnesses were asked to describe their experiences and what effect the administration's proposed legislation would have had on their recovery had it been in effect when they suffered their losses. Of the 93 physical disaster victims deposed (61 home-owners and 32 businesses), 82 percent indicated that they would not have been able to afford the proposed terms. All recipients of nonphysical disaster loans (both for regulatory compliance and displaced businesses) indicated that without such assistance they would have reduced employment or gone out of business.

On June 3, 1981, the Subcommittee on SBA and SBIC Authority, Minority Enterprise and General Small Business Problems held a hearing in which testimony similar to that taken in Nebraska and California was received from Baltimore disaster victims. After considering the information obtained in these field investigations, hearings, and other sources, the Committee met on June 9, 1981, and, after several close votes, recommended disaster program revisions which were accepted by the Full House on June 26th as part of the Omnibus Budget Reconciliation Act of 1981. After further compromise with the Senate, which had basically approved the ad-

ministration's request, a final plan was approved in Title XIX of Public Law 97-35 on August 13, 1981.

The major revisions made in SBA's disaster loan program by Public Law 97-35 are summarized below together with regulatory revisions made by the administration. In addition to these revisions, Public Law 97-35 provided for the disposition of business loan applications affected by the administration's March 19, 1981 regulations.

(i) SBA disaster loan program changes since March 1981

A. Statutory changes made by Public Law 97-35, effective for disasters commencing on or after August 13, 1981:

(1) Public Law 97-35 imposes a "credit elsewhere" test to determine the interest rate on disaster loans to repair or replace damaged homes and personal property.

Prior legislation treated all home disaster borrowers alike, regardless of their ability to secure alternative financing.

(2) Public Law 97-35 increased the interest rate on all home and personal property disaster loans. Those able to obtain alternative financing pay a formula rate relating to the government's cost of borrowing plus 1 percent. This rate fluctuates and has been as high as 16 percent. As of April 1, 1983 the rate is 10¾ percent. Those unable to obtain alternative financing pay one-half the formula rate, 5¾ percent as of April 1, 1983.

Prior legislation provided for a 3-percent interest rate on the first \$55,000 of any disaster home loan.

(3) Public Law 97-35 increased the interest rate on disaster loans to businesses unable to obtain alternative financing to a maximum of 8 percent.

Prior legislation provided for a 5-percent rate for businesses in this category.

(4) Public Law 97-35 changed the interest rate on disaster loans to businesses able to obtain credit elsewhere to the commercial "prime" rate in effect on the day the disaster commenced.

Prior legislation provided that businesses in this category would pay a formula rate relating to the government's cost of borrowing.

(5) Public Law 97-35 limits the term of loans to businesses able to obtain alternative financing to 3 years, except to avoid a hardship.

Prior legislation provided for a 3-year "graduation" review. If the business was able to obtain alternative financing at that time, it was required to do so. If not, the business could keep its government loan which would be reviewed again every 2 years for graduation.

(6) Public Law 97-35 limits the amount of eligibility on all business disaster loans to 85 percent of physical losses.

Prior legislation allowed loans to cover 100 percent of physical losses.

(7) Public Law 97-35 rewrote SBA's eight "nonphysical" economic injury loan programs into a single comprehensive "government impact" loan program to help small businesses cope

with the effects of government regulations or decisions. However, no funding of this program is currently authorized.

Prior legislation provided for nonphysical disaster loans designed to help small businesses overcome economic injury due to a variety of circumstances including, but not limited to, government regulations and decisions.

B. Regulatory changes made by SBA, effective March 19, 1981:

(1) Regulations adopted March 19, 1981, changed the criteria by which an actual disaster declaration is made, increasing the amount of damage necessary before SBA disaster assistance can be made available. The new criteria require that either:

(a) 25 homes or businesses must have suffered a 40-percent uninsured loss; or

(b) 3 businesses must have suffered a 40-percent uninsured loss and as a result 25 percent of the work force in the community will be unemployed for at least 90 days.

Under prior regulations, a disaster was of such magnitude as to trigger SBA's disaster program if it met any of the following three criteria:

(a) 25 homes or 5 businesses, or a combination of 25, suffered 25-percent uninsured losses:

(b) 3 businesses suffered 25-percent uninsured losses and as a result 25 percent of the work force in the community would be unemployed for at least 90 days; or

(c) 200 homes or 40 businesses, or a combination of 200, suffered any loss.

(2) The March 19, 1981, regulations also suspended all disaster assistance to any business deemed able to obtain alternative financing and limited remaining business disaster loans to 60 percent of actual losses. However, these regulatory provisions were overturned by Public Law 97-35.

C. Regulatory changes made by SBA, effective for all disasters commencing on or after December 18, 1981, make ineligible for disaster assistance any damages to secondary homes and their contents. Also made ineligible for such assistance were boats, vehicles and airplanes used primarily for recreation or relaxation.

Under prior regulations, disaster assistance could be provided to repair or replace such property.

It is clear that the present terms of SBA's disaster programs are more restrictive than they ever have been and the Committee has been monitoring closely the effects of the revisions made necessary by the budget process. On June 8, 1982, the Committee held field hearings in San Francisco and Santa Cruz, California to hear from victims of severe flooding and mudslides and from public officials from the affected areas about their experiences with SBA's program. On June 19, 1982, the staff also conducted interviews with flood victims in Ft. Wayne, Indiana. These three locations were selected because of the severity of the disaster damage and because they were among the first major disasters to be declared in which the disaster program revisions of Public Law 97-35 were in effect.

Witnesses indicated that the new program terms were, in many cases, causing hardships, much as a substantial majority of the 1981 witnesses in California, Nebraska and Maryland predicted they would. In addition, preliminary data appear to indicate that

the percentage of disaster loan applications which are declined, withdrawn or remain unclosed after approval is increasing. Also, the Committee has received testimony that the uncertainty as to what interest rate a prospective applicant would be eligible for has deterred some disaster victims from even applying for assistance, particularly when the interest rates on disaster home loans have been as high as 16 percent and those on disaster business loans as high as 20½ percent.

The Committee has taken action to solve a unique problem in the disaster loan program: the administratively imposed limit on the maximum amount of disaster loans for damages to homes and personal property. Although the statutory limit for these loans is the same as that for other types of disaster loans, \$500,000 in most cases, SBA has administratively limited to \$50,000, loans for physical damage to primary residences to \$10,000, for the repair or replacement of personal property or to a maximum of \$55,000 for a combination of such losses. Although these limits were set in 1971, and although inflation has eroded the buying power of the dollar, damage to most homes can be repaired within these limits. In some parts of the country, however, the growth in real estate costs have considerably exceeded the inflation rate, and, in addition, real estate prices are dramatically higher than average prices for homes in the United States.

The Committee has received substantial testimony concerning the hardships which these administrative limits have caused for disaster victims who live in average homes situated in high cost areas. Statistical data supplied by SBA indicate that 90 percent of borrowers receiving loans of more than \$50,000 (at or near the maximum current eligibility for home and personal property damages) are unable to obtain credit elsewhere; yet in some parts of the country this maximum amount of \$55,000 is completely inadequate to replace a modest home or to effect a relocation after a total loss. Because these disaster victims are unable to obtain credit elsewhere, many cannot rebuild and then become renters, others move in with relatives and still others leave the community to find inexpensive housing (such as mobile homes) elsewhere. This, in turn, can effect taxes, business revenues, and the overall economic health of the community.

Statistical data provided by SBA on May 5, 1983 indicate that, for disasters in which the terms of Public Law 97-35 apply (those occurring on or after August 13, 1981), less than 1.7 percent of disaster home loans were for amounts in excess of \$50,000. Undoubtedly, an even smaller percentage would have damage of \$100,000 or more. The Committee believes that the fiscal impact of raising the current ceilings on SBA's disaster home loans would be minimal, and that the assistance made available by such an action would go to those most in need, those with the most serious damage and those most likely to have no alternative sources of help.

On May 3, 1983 the Subcommittee on SBA and SBIC Authority, Minority Enterprise and General Small Business Problems held another hearing on SBA's disaster loan program and, in particular, on the provisions of legislation referred to the Subcommittee designed to address the problems described above and to return some measure of compassion to the disaster loan program. Bills affecting

SBA's physical disaster loan program included H.R. 592, authored by Mr. Gore; H.R. 1375, authored by Mrs. Boxer, Mr. Panetta, Mr. Bosco, Mr. Levine of California and Mr. Martinez; H.R. 1779, authored by Mr. Gejdenson; and H.R. 2583, authored by Mr. Mitchell, Chairman of the Committee. Appearing as witnesses on the physical disaster loan program were Mr. Panetta, Mrs. Boxer, and Mr. Gejdenson. The witnesses agreed substantially with the testimony received during the 97th Congress, that the SBA disaster loan program, as reconstituted by Public Law 97-35, was not providing adequate assistance to those most in need and, in some instances, creating hardships for disaster victims.

After closely examining the operation of SBA's disaster loan program for two years, the Committee has concluded that the two most pressing reforms needed in this program are lower interest rates and increased ceilings on disaster home loans. The Committee has accordingly recommended action in each area to make this vital program more responsive to disaster victims' needs and more in keeping with its original Congressional intent.

II. NON PHYSICAL DISASTER ASSISTANCE

1. *Economic injury*

Economic Injury Disaster Loans under section 7(b)(2) of the Small Business Act are provided by the Small Business Administration to firms that have suffered economic damage when normal free market forces are disrupted by a declared natural disaster.

In areas hit by major or natural disasters, determined by the President, the Secretary of Agriculture, or the Administrator of SBA, small firms suffering substantial economic injury, i.e., economic loss, that cannot get credit elsewhere are eligible for SBA loans. In the event that a natural disaster was not of sufficient severity to result in one of these three disaster declarations, SBA may still provide disaster loan assistance upon the direct request of the Governor of the State involved.

Loan funds may be used to provide working capital and to meet short-term financial obligations that the borrower would have been able to meet if not for the disaster.

To qualify for assistance, an entity must meet size standard regulations (13 CFR 121) to ensure that only "small" concerns are assisted. Farm co-ops, however, are not considered businesses by the SBA. Instead, despite obvious differences, SBA officials have said that "Co-ops are non-profit in the same sense that the American Heart Association is no-profit." Thus, co-ops can receive EIDLs only if each and every member completes the SBA's Form 355 and is certified as being "small."

To anyone who understands the nature of agricultural co-ops and the statute establishing them (the Capper-Volstead Act, Public Law 67-146), it is more realistic to consider co-op members as customers, rather than shareholders. It is clear, then, that the SBA's requirements can often inequitably disqualify a co-op from EIDL assistance.

Some co-ops have hundreds of members, many with only a tenuous relationship with the financial structure of the co-op itself, and it is unreasonable to require that each member provide finan-

cial statements to substantiate size; if 149 out of 150 members comply, the co-op remains ineligible.

Some members are "passive," being landowners who are co-op members only because their tenants desire to market crops through a cooperative. Frequently, these landowner/members are substantial investors who do not, themselves, qualify as "small"; their affiliation, however peripheral, makes the entire co-op ineligible for an EIDL.

Therefore, for two gins located in the same town, having the same size and scope of operation, the result is that one gin, privately owned, receives a loan, while the other, cooperatively owned, cannot qualify.

In the past, some SBA regional offices recognized these problems and waived the every-member size standard requirement. The Small Business Act is unclear in its application to co-ops, however, and size standard provisions were applied unevenly. Under its interpretation of the law, the present Administration refuses to waive these paperwork requirements or change the regulations governing EIDL assistance. Therefore, the Committee has decided to correct this inequity by amending Section 7(b)(2) of the Small Business Act to clarify the standards of eligibility of farm co-ops for EIDL aid, and to exempt farm co-op members from size standard determinations when being considered for EIDLs.

2. Economic dislocation

The Committee continues to be concerned over the very serious impact of the current peso devaluation crisis on small businesses along the Mexican-American border, and the extent of the Administration's efforts to counter this difficult economic dislocation.

Both in this and the prior Congress, Members have sponsored legislation to remedy this critical situation and have been opposed by the Small Business Administration which cites the agency's response through targeted direct lending as the solution. This is disingenuous in the extreme as the administration is on record as against any SBA direct lending.

In this Congress, the Committee has recognized the continuing crisis. Ten Members presented testimony on their legislation to reinstate the SBA Economic Dislocation Assistance, at the May 3, 1983, Subcommittee hearing.

In September of 1982, Committee staff surveyed U.S. cities and towns in Texas bordering along Mexico to examine the impact on American small businesses of the Mexican Government's currency devaluation and restrictions. Hearings were held in Washington, D.C., on September 29, 1982, and field hearings covering the impact on Arizona, New Mexico and California were held on November 8, 1982.

The United States border with Mexico is some 1,800 miles in length and includes the borders of four states: Texas, New Mexico, Arizona and California. The Mexican communities on the other side of these borders include some 2.5 million residents. These Mexican communities have been isolated from the delivery of goods from central Mexico. They have relied to a large extent upon U.S. manufacturers, wholesalers and retailers in the border regions.

Mexico's problems have already led to peso devaluations in February, August and December of 1982 and have driven the rate of exchange of pesos to dollars from 25 to 1 in January of 1982 to the present rate of 120-150 to 1. For border businesses highly dependent on Mexican customers these devaluations have translated into economic disaster.

For businesses in border towns dominated by large Mexican-side populations the most obvious effect of devaluations had been the sharp drop in customers. The once familiar bustle in the commercial districts of these towns has been replaced with inactivity. The decline in retail sales has triggered a multitude of problems all along the border area not the least of which is for municipalities faced with declining revenue.

At the Subcommittee's May 3, 1983, hearing Mr. Kazen stated:

If a hurricane-force wind blew along the Rio Grande, or an earthquake struck anywhere along the border between the United States and Mexico, our country would immediately go to the rescue. In my view, that is one of the most important functions of the Federal Government—to assist the various states, localities and individuals in times of emergencies beyond their control.

Picture if you will a fire or flood closing hundreds of businesses and damaging nearly every other firm in town, contributing to a 28.6 percent rate of unemployment—some 12,000 to 14,000 persons. Imagine a city government forced to lay off 120 employees because of a decrease in revenue, think about overcrowded free health clinics and a police department suddenly faced with increased thefts and burglaries.

This is the situation in my District, in Laredo, Texas and much worse in Eagle Pass, which is also in my District, and in many of our cities along the border between Brownsville, Texas, and San Diego, California. The problem is compounded because this disaster was not caused by fire, flood, wind or earthquake, but as the result of the drastic fluctuation in the value of currency in Mexico. The result is equally disastrous, and equally beyond the control of the many Americans who suffer, but under present law low interest assistance is available for natural disasters and not for economic disasters. And make no mistake about it, this is a disaster in every sense of the word.

In his 1981 budget message to Congress the President requested the termination of SBA's non-physical disaster loan program. Gramm-Latta forced the House to restructure the program and in so doing eliminated the applicability to economic dislocation resulting from foreign currency devaluation. The result was no funding for non-physical disaster relief in fiscal years 1982, 1983, and 1984. Therefore, more than a simple refunding of the non-physical disaster loan is required. There must be specific coverage of economic dislocation arising from foreign currency devaluation.

Legislation is needed to reinstate the pre-1981 SBA non-physical disaster loan program, and to make it specifically applicable to economic dislocation arising from foreign currency devaluation. Small

businesses in a qualified disaster area would be eligible for loans, and for refinancing of existing indebtedness including SBA 7(a) direct loans if conventional financing is not available. Businesses could borrow up to \$100,000 and the payment of all interest and principal could be deferred for one year. The loans could be used for working capital and to pay financial obligations which the small business owner could otherwise have met had the disaster not occurred. Funding for the program would come from the existing revolving fund for SBA disaster loans and be subject to the availability of such funds.

3. Assistance to small concerns adversely affected by Government action

In the 97th Congress part of the Administration's effort to restrict Federal credit was H.R. 2997 which as introduced, would have eliminated the authority for the non-physical disaster loans then authorized by subsection 7(b)(3)-(9) of the Small Business Act. These non-physical disaster provisions of the Act evolved as a result of responses to specific problems facing businesses such as among others, the adverse effect of military base closing and Government regulations.

The Committee did not approve the Administration's requests but agreed that the diverse non-physical disaster lending programs should be consolidated into a single program providing relief to small concerns directly or indirectly adversely affected by Federal Government action. This is the present section 7(b)(3) of the Act, which offers those small concerns unable to obtain credit elsewhere some Government assistance.

Certainly, the Committee fought for this important program at that time based on the conviction that basic fairness requires those businesses forced to relocate or alter operations as a result of Federal action should have available a Federal Government program to redress the injustice. The Committee bill H.R. 2998 contained this program.

The 7(b)(3) program, as passed the House, was funded through fiscal year 1984. However, further Conference action on the bill containing this change, then H.R. 3982 (H.R. 2998), had the unfortunate result of eliminating any present funding for the consolidated 7(b)(3) program. The Federal Government should never be in a position of forcing a small concern to close its doors with no hope of financial assistance to reestablish in business. The Committee bill would correct this situation by providing a modest authorization to assist those small concerns unable to secure credit elsewhere.

The Committee also desires to make it clear that the 1983 payment-in-kind (PIK) program to farmers (which pays farmers to remove land from production with the "payment" being in the crop being withdrawn from production rather than in cash) constitutes Federal Government action for purposes of Section 7(b)(3) of the Small Business Act.

Those small businesses injured thereby are eligible for economic injury disaster loans. This will make eligible for loan assistance small manufacturers, wholesalers and dealers of items such as fer-

tilizer, farm machinery, pesticide, seed, etc. experiencing loss of sales because farmers are not planting.

This is a serious problem of unknown scope. However, the Department of Agriculture estimates the following declines as a result of the PIK program: overall purchases by farmers down 5-7 percent; fertilizer sales to farmers down 12-14 percent; farm machinery sales down 12-15 percent; pesticide sales down 12-15 percent; and energy consumption (e.g., tractor and combine fuel) down 8-10 percent.

Private trade associations estimate an even greater impact. For example, the National Fertilizer Association estimates fertilizer consumption will decline 22-25 percent on a conservative basis. Individual State polls indicate fertilizer sales in Illinois are down 29.8 percent and in Indiana are down 27.5 percent. The Committee will be monitoring this situation on behalf of its small business constituency.

FARMER DISASTER ASSISTANCE AT SBA

Prior to Public Law 96-302 farmers were statutorily eligible for assistance from SBA for all forms of physical disaster assistance, including crop loss. In addition, under certain rather confusing and inequitable circumstances, farmers were also eligible for assistance from the Farmers Home Administration. At that time there was no requirement that farmers first seek assistance from Farmers Home Administration before going to SBA.

Public Law 96-302 amended the Small Business Act to clarify that an agricultural enterprise would not be eligible for SBA physical disaster loan assistance to repair or replace property other than a residence unless that enterprise was first declined for, or would be declined for, emergency loan assistance from the Farmers Home Administration at substantially similar interest rates.

The primary reason for that amendment was to accommodate the Administration's policy of attempting to maximize the number of agricultural producers whose financial needs resulting from a physical or natural disaster are served by FmHA's emergency loan program rather than by SBA's disaster loan program. The Committee concurred in this intent provided that an agricultural producer receives emergency loan assistance at substantially similar interest rates from FmHA as a non-agricultural business received from SBA.

The Committee stresses the underlying issue is one of equality and lack of discrimination and again states the basic premise that unless agricultural enterprises receive emergency loan assistance at substantially similar interest rates from FmHA as other business disaster victims receive from SBA, they may seek assistance from SBA. This initiative will be continued for one year only. This will assure that the programs at SBA and FmHA remain parallel.

What the bill would do:

TITLE I—SMALL BUSINESS ADMINISTRATION AUTHORIZATIONS

Title I sets maximum program levels for fiscal years 1984 and 1985 as follows:

[Dollars in millions]

	1984	1985
General IP (immediate participation) loans	105	105
Handicapped direct loans	15	15
Economic opportunity IP loans	135	135
Energy IP loans	10	10
Vietnam veterans IP loans	30	30
Total direct and IP	295	295
General guaranteed loans	2,600	3,564
Handicapped guaranteed loans	5	6
Economic opportunity guaranteed loans	60	80
Energy guaranteed loans	15	20
Development company guaranteed debentures	250	340
Total guarantees	2,930	4,010
MESBIC	70	70
SBIC guarantees	250	250
Surety bond guarantees	1,500	1,500
Nonphysical disaster loans	100	100
Pollution bond guarantees	¹ 250	250
Salaries and expenses:		
Procurement	13.526	13.526
Management	37.138	37.138
Research and analysis and advocacy	8.00	8.00
Minority small business—COD	30.25	30.25
Program evaluation and data management	10.546	10.546
Other	213.94	231.84
Total	313.4	331.3
Total authorization for appropriation	1,439.7	1,351.3

¹ And in addition any amount of the \$250 million level in fiscal year 1983 which is not used.

TITLE II—SBA PROGRAM CHANGES

International trade fairs

A new program would be authorized under which SBA could make grants or loans to small businesses to cover the cost of trade fairs and export development activities. The amounts are limited to \$15,000 for overseas events and \$2,000 for domestic events per company per year.

SBA would be authorized to cosponsor and participate in events to encourage export of small business goods and services.

SBA loans

Applicants for immediate participation loans (that is, those that receive partial funding from SBA as opposed to merely an SBA guarantee on a bank loan) would be required to inject stated amounts of additional funds from non-Federal sources as follows:

- (a) if the SBA loan is under \$100,000, at least 10 percent;
- (b) if the SBA loan is under \$100,000 and \$200,000, at least 20 percent;
- (c) if the SBA loan is under \$200,000, at least 30 percent.

These funds could be from any source except directly from the Federal Government, and if the source is a State or local govern-

ment, the percentages required on loans of \$100,000 or more would be cut in half.

Immediate participation loan funds would be allocated to SBA's district offices on a quarterly basis. Applicants for immediate participation loans (i.e., general business, economic opportunity and energy) would be required to give reasonable assurance that they will create employment opportunities within two years of disbursement of the loan proceeds.

Finally, the maximum amount of a guaranteed loan would be increased to \$750,000 (now \$500,000).

EOL guarantees

SBA would be directed to resolve reasonable doubts in favor of applicants for economic opportunity loans.

Interest rate add-on

The interest rate on 7(a) non-guaranteed loans now is based on an existing law formula involving the cost of money to the government plus up to 1 percent which SBA may add in its discretion. The authority of the agency to add this additional 1 percent to the cost of money in setting the interest rate would be eliminated.

Alternative loan repayment schedule

An alternative loan repayment schedule which permits the borrower to pay interest only during the initial term of the loan would be authorized.

If the loan term is eight years or more, he could pay interest only during the first two years;

If the loan term is ten years or more, he could pay interest only during the first three years; and

If the loan term is fifteen years or more, he could pay interest only during the first four years.

This alternative loan repayment schedule would be repealed October 1, 1985.

SBA reports

SBA would be required to report to Congress on the impact the increase in the maximum amount of a guaranteed loan and the alternative loan repayment schedule at the end of February in each of 1984 and 1985.

Minority business development

This change to current law represents a partial codification of current regulations. The change requires that each firm participating, in the section 8(a) minority business development program would receive a fixed period of participation not in excess of five years from the award of its first section 8(a) contract. Together with the SBA, the participating firm will develop a plan that shall contain a specified financial, marketing and management plan which will detail targets, goals and objectives for correcting the firms impairments to competition. During the term of participation, the SBA shall provide specific assistance outlined in the plan. Clearly, the firm as well as the SBA shall endeavor to overcome the firms identified competitive disadvantages. The length of the

term would be mutually agreed upon by the section 8(a) applicant and the SBA.

The determination of the fixed period would take into account:

- (a) the degree of economic disadvantage;
- (b) the anticipated 8(a) support necessary to promote competitive viability;
- (c) the anticipated length of time necessary to promote competitive viability;
- (d) the anticipated need for advance payments and business development expenses; and
- (e) the anticipated rate that a firm will decrease its reliance upon all forms of program support, especially 8(a) contract support.

Not less than one year prior to the expiration of the fixed period, the SBA, upon the request of the firm, could extend such period for an additional two years. The decision to extend would take into account the following factors:

- (a) the degree of economic disadvantage and the extent to which program participation has overcome such disadvantage;
- (b) the progress toward the financial, marketing and management goals developed by SBA and the firm;
- (c) the number and dollar amount of 8(a) contracts received;
- (d) the length of time in the program; and
- (e) any extenuating circumstances unique to the firm such as type of industry, geographical location, adverse unforeseen events, or involvement in special projects intended to realize additional socio-economic objectives.

No determination regarding the imposition of a fixed program term or its extension would be subject to review by administrative hearing.

These provisions would not apply to firms participating in the program upon date of enactment.

Mandatory spending

Under existing law, the statute specifies the maximum amount of loans and guarantee assistance which may be made available but does not require any minimum. The bill would require SBA to approve assistance in the maximum amounts permitted in appropriation acts unless there is a lack of qualified applicants for assistance.

It still would give SBA flexibility to respond to changes in circumstances as it expressly recognizes and permits changes by re-programming requests if approved by the Appropriations Committees or pursuant to Budget Act provisions regarding deferrals and rescissions.

Pollution bonds

Under existing law SBA now has taken the position that they will not approve guarantees under the Pollution Control Bond Guarantees program if any part of the proceeds for construction of the facilities are from tax-exempt revenue bonds. The bill would expressly prohibit the Administration from denying the guarantee solely because tax exempts are involved.

In addition, it expressly would make the change applicable to those applications pending when OMB ordered the rules changed in January 1982.

Surety bonds

In order to reduce budget levels, last year SBA limited Surety Bond Guarantees to a maximum of \$250,000 (instead of the statutory \$1 million) and further limited the maximum amount to not more than 25 percent higher than the previously successfully completed contract. As of April 1, 1983, SBA eliminated the \$250,000 cap and increased the percentage limitation from 25 percent to 100 percent. In order to prevent any recurrence, the bill expressly prohibits SBA (or SBA upon instructions from OMB) from limiting the maximum amount of a bond below the statutory limit and from utilizing a percentage increase limitation except on a case-by-case basis. Although SBA may have eliminated most of the problem with its April 1st change, nonetheless it can just as easily reverse itself again and thus the matter should be covered statutorily.

Small Business Committee notification

The bill would codify current generally adhered to practice of SBA notifying the Small Business Committees before reprogramming any program amounts and to require that SBA notify the Committees before implementing any reorganization.

Labor surplus procurement

The bill would make certain technical amendments to existing legislative authority pertaining to the labor surplus area procurement set-aside program. In addition, it would re-enact certain provisions of this program to promote a greater degree of uniformity in the Federal acquisition system by removing the existing prohibition against DCD participating in total labor surplus area set asides.

Size standards

SBA maintains that promulgation of rules and regulations regarding size standards is not mandatory under the Administrative Procedure Act but they have voluntarily brought themselves under the Act. The last time they promulgated a complete revision of size standards they did follow the APA. They have asserted on several occasions that they need not have done so and it would seem prudent to eliminate the possibility of their doing so.

The bill expressly would mandate that any size standard changes be in accordance with the Administrative Procedure Act.

MESBIC leveraging

The GAO originally issued an opinion that MESBICs could use State or other Federal financing as part of their leverage to obtain SBA funds. Some one dozen MESBICs relied on this and were organized. Subsequently the GAO reversed itself.

This bill would allow MESBICs which relied on the original GAO ruling prior to its revocation to obtain SBA funding as permitted under the original ruling.

Working capital from development companies

Under section 503 of the Small Business Investment Act of 1958, the use of financial assistance provided by SBA to development companies is restricted to land, capital improvements, and machinery needs of assisted small business concerns.

The bill would expand this use of proceeds to include working capital.

Source of private development company funds

Proceeds of guaranteed debentures issued by development companies under section 503 of the Small Business Investment Act of 1958 may be used to provide funding for up to one-half of project cost for small businesses. SBA has refused guarantees if the non-SBA portion is partially or wholly funded by Industrial Revenue Bonds.

The bill would prohibit SBA from using the source or nature of the other funds as a criteria for eligibility.

Handicapped participation in set-asides

Under existing law, organizations of handicapped are authorized to participate in up to \$100 million in small business set-aside contracts in each of fiscal years 1981 through 1983. The bill would extend this provision to each of fiscal years 1984 through 1986. It also would require an annual report from SBA on the impact of this provision on small business.

TITLE III—DISASTER LOAN ASSISTANCE

Physical disaster loans

The bill would revise the interest rate on SBA loans to repair or replace property damaged or destroyed by a natural disaster which occurs on or after October 1, 1982, as follows:

A. For homeowners who are unable to obtain a loan from other sources, the interest rate would be set at one-half the cost of money to the Federal Government but not to exceed 4 percent.

Under existing law this rate for disasters occurring in April-June, 1983, 5¾ percent.

B. For homeowners who are able to obtain a loan from other sources, the interest rate would be set at the cost of money to the Federal Government but not to exceed 8 percent.

Under existing law this rate for disasters occurring in April-June, 1983, is 11½ percent.

C. For businesses who are unable to obtain a loan from other sources, the interest rate would be set at not to exceed 4 percent.

Under existing law this rate for disasters occurring in April-June, 1983, is 8 percent.

D. For businesses who are able to obtain a loan from other sources, the interest rate would be the lowest of the following:

1. the rate prevailing in the private market for similar loans;
2. the maximum rate of SBA guaranteed business loans; or
3. 8 percent.

Under existing law this rate for disasters occurring in April-June, 1983, is 10½ percent.

Also, businesses again would be made eligible for loans of up to 100 percent of the amount of their net, uninsured loss (they are limited to 85 percent under existing law) up to a statutory maximum of 500,000 per disaster, with an exception being possible for a major source of employment.

It also would prohibit SBA from arbitrarily setting a cap on disaster loans to homeowners at less than \$100,000 on account of damage to real estate or \$20,000 on account of damage or loss of personal property. (Under existing regulations, the limit is \$50,000 for damage to real estate and \$10,000 for damage to personal property, but not to exceed a combination of \$55,000 per disaster.)

Finally, it would require the Administration to reduce the interest rate on outstanding loans made as a result of a disaster commencing on or after last October 1st.

1984 disaster loan program amounts

SBA would be authorized to make \$100 million in direct loans in 1984 under the non-physical disaster loan program in section 7(b)(3) of the Small Business Act (this program provides loans to assist in effecting additions to, alterations in or reestablishment of a plant, facility, or methods of operation made necessary by direct action of the Federal Government or as a consequence of Federal government action or to meet requirements or restrictions imposed by any Federal law or State law in conformity therewith) and up to \$440 million in physical disaster loans in 1984.

Under existing law there are no funds available under the non-physical disaster loan program and there is no limit on the total amount of physical disaster loans which may be made.

Farmer eligibility for disaster loans

A provision of current law which requires agricultural producers to seek disaster loan assistance from the Farmers Home Administration before they are eligible to apply for an SBA disaster loan would be extended for one year or until October 1, 1984.

Peso impact loan program

A loan program would be re-enacted to provide assistance to victims of the Mexican peso devaluation and currency exchange freeze. A similar program was repealed by the 1981 reconciliation bill. Under this program, a small business which cannot obtain a loan from another source and which is located in an area of economic dislocation which has suffered substantial economic injury as a result of the drastic fluctuation of the value of the currency of a country contiguous to the U.S. could receive loan assistance if the governor certifies that small businesses in his State have been hurt by such dislocation. the maximum amount of the loan would be limited to \$100,000 and the proceeds could not be used to reduce the exposure of any other lender.

The interest rate could not exceed 8 percent.

P-I-K treated as nonphysical disaster

Under existing law, small businesses which have suffered substantial economic injury as a consequence of action by the Federal

Government are eligible for economic injury disaster loans from SBA.

The bill would clarify that the 1983 payment-in-kind program to farmers (which pays farmers to remove land from production with the "payment" being in the crop being withdrawn from production rather than in cash) constitutes such Federal Government action that those small businesses injured by it are eligible for economic injury disaster loans. This would authorize loans to enable small manufacturers, wholesalers and dealers of items such as fertilizer, farm machinery, pesticide, seed, etc. which have suffered loss of sales because farmers are not planting crops.

Shopping enclave disaster damage

The bill would specify that if a building owned by a nonprofit institution is damaged or destroyed by a natural disaster and if the building is being occupied by small businesses, the owner would be eligible to seek disaster loan assistance in the major employer category, a category of applicants for whom SBA may waive the \$500,000 cap on disaster loans.

Agricultural cooperative disaster eligibility

SBA would be authorized to provide economic injury disaster loan assistance to agricultural cooperatives by regarding the cooperatives as an entity rather than regarding it as an association of members, but the entity would qualify only if (a) each member of its board of directors or governing body qualifies as a small business and (b) the entity itself qualifies as a small business.

Implementation of new laws

SBA would be required to implement, on a timely basis, the laws it administers by (a) publishing proposed rules and regulations within ninety days of enactment of the law and (b) publishing final rules and regulations within one hundred and eighty days of enactment of the law.

Effective date

The Act would be effective October 1, 1983 in order to comply with Budget Act requirements.

Conclusion

Although this omnibus legislation addresses a wide variety of great concern to the small business community, they can be generally divided into three main categories: revisions in SBA authorization levels, clarification of Congressional intent made necessary by administrative and regulatory actions which the Committee believes are adversely affecting small business, and modifications in SBA's disaster loan program to alleviate hardships imposed on disaster victims by the 1981 budget process and to restore some measure of compassion and assistance to these programs.

These recommendations are made after two years of oversight of SBA programs, including numerous staff investigations and dozens of hearings both in Washington and around the country. The Committee believes that the small business community is truly the Nation's job creator and that it cannot perform this function without

adequate capital and special programs to assist it in overcoming barriers in the marketplace. The Committee further believes this legislation will enhance the small business community's participation in the Nation's economic recovery. Small business leads America in job creation and technological innovation, and economic recovery cannot be complete without a healthy small business sector.

MATTERS REQUIRED TO BE DISCUSSED UNDER HOUSE RULES

In compliance with clause 2(1)(2) of rule XI of the House of Representatives, the following statement is made relative to the vote on the motion to report H.R. 3020:

A majority of the Committee voted in person and was actually present and the motion was approved by a voice vote.

In compliance with clause 2(1)(3) of the rule XI of the Rules of the House of Representatives, the following statements are made:

With regard to subdivision (A), relating to oversight findings, the Committee finds, in keeping with clause 2(b)(1) of rule X, that this legislation is in full compliance with the provision of this rule of the House which states:

"In addition, each such committee shall review and study any conditions or circumstances which may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of that committee.* * *"

With regard to subdivision (B), relating to the statement required by section 308(a) of the Congressional Budget Act of 1974, the following statement is made relative to the legislation:

Section 3(a)(2) of the Congressional Budget Act defines the term "tax expenditures" as those revenue losses attributable to provisions of the Federal tax laws which allows a special exclusion exemption, or deduction, from gross income or which provide a special credit, a preferential tax rate of tax, or a deferral of tax liability.

None of the provisions of H.R. 3020 deals with taxation and thus, in your Committee's opinion, this bill does not provide new or increased tax expenditures.

Section 3(a)(2) of the Congressional Budget Act defines the term "budget authority" as authority provided by law to enter into obligations which will result in immediate or future outlays involving Government funds.

Under this definition, it is the final action of Congress that authorizes an agency to enter into obligations which constitutes new budget authority. In those cases which entail (1) an authorization for an agency to undertake a program; (2) an authorization for appropriation of funds to permit that agency to enter into obligations; and (3) an actual appropriation of such funds, it would be only the final action of Congress in appropriating funds which constitutes the budget authority.

None of the provisions of H.R. 3020 appropriates funds and thus, in your Committee's opinion, the bill does not provide new budget authority. Accordingly, no comparison of budget authority, outlays or tax expenditures or 5-year projections have been made.

With regard to subdivisions (C) and (D), the cost estimate of the Director of the Congressional Budget Office relative to H.R. 3020 has been requested but has not been received.

No oversight findings or recommendations have been made by the Committee on Government Operations with respect to the subject matter contained in H.R. 3020.

In compliance with clause 2(1)(4), the Committee concludes that the provisions of this legislation in and of themselves will have no inflationary impact on prices and costs in the operation of the national economy.

In compliance with clause 7, rule XIII of the House of Representatives, The Committee makes the following statement:

The costs attributable to this bill for the current fiscal year and for fiscal years 1984-88 are as follows: This bill authorizes the appropriation of some \$3 billion in fiscal years 1984 and 1985. Of this amount, however, \$600 million is for loans, most of which will be repaid. The remainder is for salaries and expenses and to drive guarantee programs which permit small business to provide employment to millions of Americans. Thus, when the impact upon jobs is considered, this bill will actually provide a positive cash flow and does not cost the Government money.

No cost estimate was submitted by any Government agency on H.R. 3020 to your Committee.

In your Committee's opinion, the above statements fully comply with the Rules of the House of Representatives.

SECTION-BY-SECTION ANALYSIS

TITLE I—SMALL BUSINESS ADMINISTRATION AUTHORIZATIONS

101. PROGRAM LEVELS AND AUTHORIZATIONS. Section 101 would amend section 20 of the Small Business Act and provide, in a new subsection (q), paragraphs (1) through (6), the following maximum program levels for fiscal year 1984:

(1 and 2) Section 7(a) business loans—\$295 million in direct and immediate participation loans and \$2.93 billion in deferred participation (guaranteed) loans and guarantees of debentures; earmarking for:

(a) Vietnam Veterans' loans—\$30 million in immediate participation loans;

(b) Handicapped assistance loans—\$15 million in direct loans and \$5 million in guaranteed loans;

(c) Economic opportunity loans—\$135 million in immediate participation loans and \$60 million in guaranteed loans;

(d) Solar and other energy conservation loans—\$10 million in immediate participation loans and \$15 million in guaranteed loans; and

(e) State and local development company assistance—\$250 million in guarantees of debentures;

(3) Small business investment company assistance—\$70 million in direct purchase of debentures and preferred securities and \$250 million in guarantees of debentures;

(4) Surety bond guarantees program—\$1.5 billion in guarantees;

(5) Nonphysical disaster loans under section 7(b)(3) and 7(b)(4)—\$100 million direct;

(6) Pollution control bond guarantees program—guarantees not to exceed \$250 million plus any amount of the \$250 million level in 1983 which was not obligated.

A proposed section 20(q)(7) would authorize the appropriation of any necessary funds to operate the disaster loan program contained in sections 7(b) (1) and (2).

Section 101 would further provide in a proposed subsection (r) of section 20 of the Act, a total authorization for fiscal year 1984 of \$1,439.7 million to operate designated programs and to provide funds for Small Business Administration salaries and expenses.

Of the total authorization, \$1,112 million is for the direct and immediate participation for programs, for guarantees of loans and debentures and for the SBIC programs; \$17 million is for the surety bond guarantees program; \$4 million is for the real estate lease guarantees program; and \$313.4 million is for salaries and expenses.

Certain SBA activities and functions are singled out by providing the following salaries and expenses line item authorizations and priorities in six paragraphs of subsection 20(r):

(1) Procurement and Technical Assistance—\$13.526 million, of which not less than \$2.318 million is for technical assistance and of this sum not less than \$903,000 is to continue to develop a procurement automated source system and not less than \$175,000 is to develop and maintain technology assistance centers having access to at least thirty technology data banks to define technology problems of small business;

(2) Management and Technical Assistance—\$37.138 million, of which not less than \$1.214 million is to sustain an export development program and counseling services for the Office of International Trade, and of which up to \$4 million is for grants or loans for small business export development and up to \$1 million of which is for Administration efforts to encourage small business exports;

(3) Economic Research and Analysis and Advocacy—\$8 million, of which \$2.42 million is to develop an effective advocacy program employing at least sixty-nine staff, with priority given to research, developing and maintaining an indicative small business data base and data bank expending not less than \$3.75 million;

(4) Office of Minority Small Business and Capital Ownership Development—\$30.25 million, including earmarking of \$13.655 million for 7(j) functions;

(5) Program Evaluation and Data Management—\$10.546 million, and SBA is directed to more effectively and efficiently utilize its data management resources; and

(6) Small Business Development Center Program—such sums as may be necessary.

Subsection (s) would authorize the Administrator to reallocate no more than 10 percent of the levels for salaries and expenses in paragraphs (1) through (5) of section 20(r); however, no program level in these paragraphs may be increased more than 20 percent by such transfer.

Section 101 also would amend section 20 of the Small Business Act and provide, in a new subsection (t), paragraphs (1) through (6), the following maximum program levels for fiscal year 1985:

(1 and 2) Section 7(a) business loans—\$295 million in direct and immediate participation loans and \$40.1 billion in deferred participation (guaranteed) loans and guarantees of debentures; earmarking for:

(a) Vietnam Veterans' loans—\$30 million in immediate participation loans;

(b) Handicapped assistance loans—\$15 million in direct loans and \$6 million in guaranteed loans;

(c) Economic opportunity loans—\$135 million in immediate participation loans and \$80 million in guaranteed loans;

(d) Solar and other energy conservation loans—\$10 million in immediate participation loans and \$20 million in guaranteed loans; and

(e) State and local development company assistance—\$340 million in guarantees of debentures;

(3) Small business investment company assistance—\$70 million in direct purchase of debentures and preferred securities and \$250 million in guarantees of debentures;

(4) Surety bond guarantees program—\$1.5 billion in guarantees;

(5) Nonphysical disaster loans under section 7(b)(3) and 7(b)(4)—\$100 million direct;

(6) Pollution control bond guarantees program—guarantees not to exceed \$250 million.

A proposed section 20(t)(7) would authorize the appropriation of any necessary funds to operate the disaster loan program contained in sections 7(b) (1) and (2).

Section 101 would further provide in a proposed subsection (u) of section 20 of the Act, a total authorization for fiscal year 1984 of \$1,351.3 million to operate designated programs and to provide funds for Small Business Administration salaries and expenses.

Of the total authorization, \$999 million is for the direct and immediate participation loan programs, for guarantees of loans and debentures and for the SBIC programs; \$17 million is for the surety bond guarantees program; \$4 million is for the real estate lease guarantees program; and \$331.3 million is for salaries and expenses.

Certain SBA activities and functions are singled out by providing the following salaries and expenses line item authorizations and priorities in six paragraphs of the proposed section 20(u):

(1) Procurement and Technical Assistance—\$13.526 million, of which not less than \$2.318 million is for technical assistance and of this sum not less than \$903,000 is to continue to develop a procurement automated source system and not less than \$175,000 is to develop and maintain technology assistance centers having access to at least thirty technology data banks to define technology problems of small business;

(2) Management and Technical Assistance—\$37.138 million of which not less than \$1.214 million is to sustain an export development program and counseling services for the Office of International Trade, and of which up to \$4 million is for grants or loans for

small business export development and up to \$1 million of which is for Administration efforts to encourage small business exports;

(3) Economic Research and Analysis and Advocacy—\$8 million, of which \$2.42 million is to develop an effective advocacy program employing at least sixty-nine staff, with priority given to research, developing and maintaining an indicative small business data base and data bank expending not less than \$3.75 million;

(4) Office of Minority Small Business and Capital Ownership Development—\$30.25 million, including earmarking of \$13.655 million for 7(j) functions;

(5) Program Evaluation and Data Management—\$10.546 million, and SBA is directed to more effectively and efficiently utilize its data management resources; and

(6) Small Business Development Center Program—such sums as may be necessary.

Subsection (v) authorizes the Administrator to reallocate no more than 10 percent of the levels for salaries and expenses in paragraphs (1) through (5) of section 20(u); however, no program level in these paragraphs may be increased more than 20 percent by such transfer.

TITLE II—SBA PROGRAM CHANGES

201. **INTERNATIONAL TRADE FAIRS.** Section 201 would amend section 22(b)(2) of the Small Business Act to authorize a new program under which SBA could make grants or loans to small businesses to cover the cost of trade fairs and export development activities. The amounts would be limited to \$15,000 for overseas events and \$2,000 for domestic events per company per year.

It would also add a proposed section 22(b)(4) to specifically authorize SBA to cosponsor and participate in events to encourage export of small business goods and services.

202. **SBA LOANS.** Section 202 would amend section 7(a)(3)(A) of the Small Business Act to require that applicants for immediate participation loans (that is, those that receive partial funding from SBA as opposed to merely an SBA guarantee on a bank loan) under the general business loan program, the economic opportunity loan program or the energy loan program obtain stated amounts of additional funds from non-Federal sources as follows:

- (a) if the SBA loan is under \$100,000, at least 10 percent;
- (b) if the SBA loan is between \$100,000 and \$200,000, at least 20 percent;
- (c) if the SBA loan is over \$200,000, at least 30 percent.

These funds could be from any source except directly from the Federal Government, and if the source is a State or local government, the percentages required on loans of \$100,000 or more would be cut in half.

The proposed section 7(a)(16)(B) would allocate immediate participation loan funds to each district office on the basis of unemployment in the district as compared to national unemployment. It also would require in the proposed 7(a)(16)(B) that immediate participation loan funds be allocated to SBA's district offices on a quarterly basis.

The proposed 7(a)(16)(A) would require applicants for immediate participation loans (i.e., general business, economic opportunity and energy) to give reasonable assurance that they will create employment opportunities within two years of disbursement of the loan proceeds.

Finally, the proposed 7(a)(3)(A) would increase to \$750,000 (now \$500,000) the maximum amount of a guaranteed loan.

203. EOL GUARANTEES. Section 203 would amend section 7(a)(6)(A) of the Small Business Act to direct SBA to resolve reasonable doubts in favor of applicants for economic opportunity loans.

204. INTEREST RATE ADD-ON. Section 204 would amend section 7(a)(4) of the Small Business Act by striking eliminate the authority of SBA to add an additional 1 percent to the cost-of-money formula in setting the interest rate on direct loans.

205. ALTERNATIVE LOAN REPAYMENT SCHEDULE. Section 205 would add a new paragraph (17)(A) to subsection 7(a) of the Small Business Act to specify an alternative loan repayment schedule which permits the borrower to pay interest only during the initial term of the loan.

If the loan term is eight years or more, he could pay interest only during the first two years;

If the loan term is ten years or more, he could pay interest only during the first three years; and

If the loan term is fifteen years or more, he could pay interest only during the first four years.

206. SUNSET ALTERNATIVE LOAN REPAYMENT SCHEDULE. Section 206 would repeal section 205 on October 1, 1985.

207. SBA REPORTS. Section 207 would require SBA to report to Congress on the impact of section 202 and 205 at the end of February in each of 1984 and 1985.

208. MINORITY BUSINESS DEVELOPMENT. Section 208 would amend subsection 7(j)(10)(A)(i) of the Small Business Act to codify current law partially. The language would provide that each firm participating in the section 8(a) minority business development program receive a fixed period of participation not in excess of five years from the award of its first section 8(a) contract. The term would be mutually agreed upon by the section 8(a) applicant and the SBA.

In determining the fixed period, the following would be taken into account:

- (a) the degree of economic disadvantage;
- (b) the anticipated 8(a) support necessary to promote competitive viability;
- (c) the anticipated length of time necessary to promote competitive viability;
- (d) the anticipated need for advance payments and business development expense; and
- (e) the anticipated rate that a firm would decrease its reliance upon all forms of program support, especially 8(a) contract support.

Not less than one year prior to the expiration of the fixed period, the SBA, upon the request of the firm, could extend such period for an additional two years. The decision on the extension would take into account the following factors:

- (a) the degree of economic disadvantage and the extent to which program participation has overcome such disadvantage;
- (b) the progress toward the financial, marketing and management goals developed by SBA and the firm;
- (c) the number and dollar amount of 8(a) contracts received;
- (d) the length of time in the program; and
- (e) any extenuating circumstances unique to the firm such as type of industry, geographical location, adverse unforeseen events, or involvement in special projects intended to realize additional socio-economic objectives.

No determination regarding the imposition of a fixed program term or its extension would be subject to review by administrative hearing.

These provisions would not apply to firms participating in the program upon date of enactment.

209. MANDATORY SPENDING. Section 209 would amend section 5 of the Small Business Act by adding a new subsection (f) which would require SBA to approve loans, loan guarantees, and guarantees of debentures, payment of rentals, or other amounts due under qualified contracts and other types of financial assistance and to enter commitments to guarantee sureties against loss pursuant to programs under this Act and the Small Business Investment Act of 1958 in the maximum amounts permitted in authorization and appropriations Acts unless there is a lack of qualified applicants for such assistance.

210. POLLUTION BONDS. Section 210 would amend section 404(b) of the Small Business Investment Act of 1958 by prohibiting the Administration from denying guarantees of pollution control contracts solely because tax exempt bonds are involved in financing part of the project involved in the guarantee request.

In addition, it would make the change applicable to those applications pending in January, 1982 or made since then.

211. SURETY BONDS. Section 211 would amend section 411 of the Small Business Investment Act of 1958 by prohibiting SBA from limiting the maximum amount of a surety bond eligible for a guarantee below the statutory dollar limit and from imposing a percentage increase limitation on the amount of a surety bond it would guarantee except on a case-by-case basis.

212. SMALL BUSINESS COMMITTEE NOTIFICATION. Section 212 would amend section 5 of the Small Business Act by adding a new subsection (g) to require SBA to notify the Small Business Committees before reprogramming any program amounts and to require that SBA notify the Committees before implementing any reorganization.

213 and 214. TECHNICALS REGARDING LOAN CONSOLIDATION. Sections 213 and 214 would change references in section 7 of the Small Business Act from "7(i)" to "7(a)(11)"; repeal subsections (e), (h), (i) and (l) of section 7; and make certain other technical changes.

215. LABOR SURPLUS PROCUREMENT. Section 215 would amend section 15 of the Small Business Act. The revised subsection (d) would require that in Federal procurements priority be given to awarding of contracts and subcontracts to small businesses which perform a substantial proportion of the work involved in or near areas of con-

centrated employment or underemployment or within labor surplus areas.

Under the revised subsection (e), priority would be given as follows:

(a) small businesses in labor surplus areas on the basis of a total small business-labor surplus area set-aside;

(b) small businesses on the basis of a total small business set-aside;

(c) small businesses in labor surplus areas on the basis of a partial small business-labor surplus set-aside; and

(d) small businesses on the basis of a partial small business set-aside.

Under the proposed subsection (f), the final priority would be businesses which will perform a substantial proportion of the work within areas of concentrated employment or underemployment or within labor surplus areas.

216. TECHNICAL DISASTER CHANGES. Section 216 would amend section 3(h) of the Small Business Act by changing the term "availability of credit" to "availability of sufficient credit" and the term "conditions" to "conditions and at reasonable rates" in the credit elsewhere definition.

217. SIZE STANDARD. Section 217 would amend section 3(a) of the Small Business Act by requiring that SBA follow the Administrative Procedure Act in promulgating, amending or rescinding any rule or regulation regarding small business size standards and by striking obsolete language prohibiting changes in size standards before March 31, 1981.

218. MESBIC LEVERAGING. Section 218 would amend section 302(a) of the Small Business Investment Act of 1958 by adding a provision that funds obtained by a section 301(d) licensee from the Federal Government before July 29, 1980 are eligible for matching funds under section 303.

219. WORKING CAPITAL FROM DEVELOPMENT COMPANIES. Section 219 would amend section 502 of the Small Business Investment Act of 1958 by adding "working capital" as an eligible use of loan proceeds.

220. SOURCE OF PRIVATE DEVELOPMENT COMPANY FUNDS. Section 220 would amend section 503 of the Small Business Investment Act of 1958 by inserting a provision to prohibit SBA from using, as a criteria to approve or reject a guarantee request, the source or nature of any other funds obtained by a section 503 development company.

221. HANDICAPPED PARTICIPATION IN SET-ASIDES. Section 221 would amend section 15(c) of the Small Business Act by striking fiscal years specified and inserting dates through 1986. It also would require an annual report from SBA on the impact of this provision on small business.

TITLE III—DISASTER LOAN ASSISTANCE

301. PHYSICAL DISASTER LOANS. Section 301 would amend section 7(c)(5) of the Small Business Act revising the interest rate on SBA physical disaster loans to repair or replace property damaged or de-

stroyed by a declared disaster which occurs on or after October 1, 1982 as follows:

A. For homeowners who are unable to obtain a loan from other sources, a rate equal to one-half the cost of money to the Federal Government but not to exceed 4 percent;

B. For homeowners who are able to obtain a loan from other sources, a rate equal to the cost of money to the Federal Government but not to exceed 8 percent;

C. For businesses which are unable to obtain a loan from other sources, a rate not to exceed 4 percent; and

D. For businesses which are able to obtain a loan from other sources, a rate which is the lowest of the following:

1. The rate prevailing in the private market for similar loans;
2. The maximum rate for SBA guaranteed business loans; or
3. 8 percent.

Also, a proposed section 7(c)(6) would make businesses eligible for loans of up to 100 percent of the amount of their net, uninsured loss and would prohibit SBA from arbitrarily setting a cap on disaster loans to homeowners at less than \$100,000 on account of damage to real estate or \$20,000 on account of damage or loss of personal property.

Finally, it would require the Administration to reduce the interest rate on outstanding loans made as a result of a disaster commencing on or after last October 1st.

302. 1984 DISASTER LOAN PROGRAM AMOUNTS. Section 302 would amend section 20(q)(5) to authorize SBA to make \$100 million in direct loans in 1984 under the non-physical disaster loan program in section 7(b)(3) of the Small Business Act and up to \$440 million in physical disaster loans in 1984.

303. FARMER ELIGIBILITY FOR DISASTER LOANS. Section 303 would amend section 18(a) of the Small Business Act by extending for one year or until October 1, 1984 a provision of current law which requires agricultural producers to seek disaster loan assistance from the Farmers Home Administration before they are eligible to apply for an SBA disaster loan.

304. PESO IMPACT LOAN PROGRAM. Section 304 would amend section 7(b) of the Small Business Act by inserting a new paragraph (4) which would establish a loan program to provide assistance to small business victims of the Mexican peso devaluation and currency exchange freeze. Under this program, a small business which cannot obtain a loan from another source and which is located in an area of economic dislocation which has suffered substantial economic injury (i.e., loss of sales) as a result of the drastic fluctuation of the value of the currency of a country contiguous to the U.S. could receive loan assistance if the governor certifies that small businesses in his state have been hurt by such dislocation. The maximum amount of the loan would be limited to \$100,000 and the proceeds could not be used to reduce the exposure of any other lender.

The interest rate could not exceed 8 percent.

305-307. TECHNICAL AMENDMENTS. Sections 305 through 307 would amend sections 20(q) and (t) and section 4(c)(1) of the Small Business Act by making technical amendments to implement the peso impact loan program authorized by section 304.

308. **EFFECTIVE DATE OF PESO IMPACT LOAN PROGRAM.** Section 308 would make sections 304 through 307 applicable to economic dislocations certified by any State Governor to the SBA after the date of enactment providing the dislocation commenced since January 1, 1982.

309. **P-I-K TREATED AS NONPHYSICAL DISASTER.** Section 309 would amend section 7(b)(3) of the Small Business Act by clarifying that the 1983 payment-in-kind program to farmers constitutes a Federal Government action to trigger eligibility of small businesses injured by it for economic injury disaster loans under section 7(b)(3).

310. **SHOPPING ENCLAVE DISASTER DAMAGE.** Section 310 would further amend the disaster loan provisions of section 7(b) of the Small Business Act to permit employees of concerns sharing a common business premises to be aggregated in determining "major source of employment" status for non-profit applicants for disaster loans.

311. **AGRICULTURAL COOPERATIVE DISASTER ELIGIBILITY.** Section 311 would amend section 3 of the Small Business Act by adding a new subsection (j) to authorize SBA to provide economic injury disaster loan assistance to agricultural cooperatives by regarding the cooperative as an entity rather than regarding it as an association of members. The entity would qualify if (a) each member of its board of directors or governing body qualifies as a small business and (b) the entity itself qualifies as a small business.

312 and 313. **TECHINCAL—AGRICULTURAL COOP DISASTER ELIGIBILITY.** Sections 312 and 313 would amend section 7(b)(2) of the Small Business Act by making technical amendments to implement the changes in the economic injury disaster loan program authorized by section 311 effective with respect to a certification of a disaster issued after September 1, 1982.

314. **IMPLEMENTATION OF NEW LAWS.** Section 314 would insert a new section 26 in the Small Business Act to require SBA to implement, on a timely basis, the laws it administers by (1) publishing proposed rules and regulations within ninety days of enactment of the law and (b) publishing final rules and regulations within one hundred and eighty days of enactment of the law.

315. **EFFECTIVE DATE—**Section 315 would make the Act effective October 1, 1983.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

[In some cases changes need to be made in the reported bill to reflect its apparent intent which is shown is the following.]

SMALL BUSINESS ACT

SEC. 2. (a) * * *

* * * * *

(c)(1) The assistance programs authorized by sections [7(i)] 7(a)(11) and 7(j) of this Act are to be utilized to assist in the establishment, preservation, and strengthening of small business concerns and improve the managerial skills employed in such enterprises, with special attention to small business concerns (1) located in urban or rural areas with high proportions of unemployed or low-income individuals; or (2) owned by low-income individuals; and to mobilize for these objectives private as well as public managerial skills and resources.

* * * * *

SEC. 3. (a) For the purposes of this Act, a small-business concern, including but not limited to enterprises that are engaged in the business of production of food and fiber, ranching and raising of livestock, aquaculture, and all other farming and agricultural related industries, shall be deemed to be one which is independently owned and operated and which is not dominant in its field of operation. In addition to the foregoing criteria the Administrator, in making a detailed definition, may use these criteria, among others: Number of employees and dollar volume of business: *Provided*, [That the Administration shall not promulgate, amend, or rescind any rule regulation with respect to size standards prior to March 31, 1981.] *That notwithstanding the waiver provisions of any other law, the Administration shall not promulgate, amend or rescind any rule or regulation with respect to size standards except in accordance with the procedures of chapter 5 of title 5, United States Code.* Where the number of employees is used as one of the criteria in making such definition for any of the purposes of this Act, the maximum number of employees which a small-business concern may have under the definition shall vary from industry to industry to the extent necessary to reflect differing characteristics of such industries and to take proper account of other relevant factors.

(h) For purposes of this Act, the term "credit elsewhere" means the availability of *sufficient* credit from non-Federal sources on reasonable terms and conditions *and at reasonable rates*, taking into consideration the prevailing rates and terms in the community in or near where the concern transacts business, or the homeowner resides, for similar purposes and periods of time.

* * * * *

(j) For the purposes of section 7(b)(2) of this Act, the term "small agricultural cooperative" means an association (corporate or otherwise) acting pursuant to the provisions of the Agriculture Marketing Act (12 U.S.C. 1114j), whose size does not exceed the size standards established by the Administration for other similar agricultural small business concerns. In determining such size, the Administration shall regard the associations as an entity and shall not include the income or employees of any member shareholder of such cooperative: *Provided*, That such an association shall not be deemed to be a small agricultural cooperative unless each member of the board of directors of the association, or each member of the governing body of the association if it is not incorporated, also individually qualifies as a small business concern.

SEC. 4. (a) * * *

(c)(1) There are hereby established in the Treasury the following revolving funds: (A) a disaster loan fund which shall be available for financing functions performed under sections 7(b)(1), 7(b)(2), 7(b)(3), 7(b)(4), and 7(c)(2) of this Act; and (B) a business loan and investment fund which shall be available for financing functions performed under sections 7(a), and 8(a) of this Act, and titles III and V of the Small Business Investment Act of 1958.

SEC. 5. (a) * * *

(f) *Notwithstanding any other provision of law, the Administration shall enter into commitments for direct loans and to guarantee loans, debentures, payment of rentals, or other amounts due under qualified contracts and other types of financial assistance and to enter commitments to guarantee sureties against loss pursuant to programs under this Act and the Small Business Investment Act of 1958 in the full amounts provided by law, including reprogramming requests approved by the Appropriations Committees of the United States Senate and the House of Representatives of the United States, subject only to (1) the availability of qualified applications for such direct loans and guarantees, and (2) limitations and amounts contained in authorization and appropriation Acts. Nothing in this subsection authorizes the Administration to reduce or limit its authority to enter commitments for direct loans or for such guarantees to qualified applicants.*

(g) *The Administration shall notify the Senate Small Business Committee and the Small Business Committee of the United States House of Representatives before reprogramming any program amounts authorized in appropriations Acts or reports explanatory thereof and shall notify the Senate Small Business Committee and the Small Business Committee of the United States House of Representatives before implementing any reorganization of such agency.*

SEC. 7. (a) * * *

(1) No financial * * *

[(3) No loan under this subsection shall be made if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established by this Act would exceed \$500,000: *Provided*, That no such loan made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate basis shall exceed \$350,000.]

(3)(A) *No loan under this subsection shall be made if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established by section 4(c)(1) of this Act would exceed \$750,000: Provided, That the Administration's share of any loan made or effected either*

directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate basis shall not exceed \$350,000: Provided further, That any immediate participation loan made pursuant to this subsection shall be accompanied by an injection of additional funds derived from non-Federal sources in the following amounts:

(i) if the loan is under \$100,000 in amount, at least 10 per centum;

(ii) if the loan is between \$100,000 and \$200,000 in amount, at least 20 per centum; and

(iii) if the loan is over \$200,000 in amount, at least 30 per centum.

(B) The percentages specified in subparagraphs (A)(ii) and (iii) shall be reduced to 10 per centum and 15 per centum, respectively, if the non-Federal source funds are derived from a State or local government, including tax-exempt obligations of such governments.

(C) The Administration shall delegate to each district office the authority to approve immediate participation loans except those made under the authority of 7(a)(11) in the amounts specified in subparagraph (A)(i), (ii) and (iii) under the conditions specified in the Act without seeking higher approval within the Administration.

(D) The Administration may transfer no more than 15 per centum of each of the total levels for direct loan programs as authorize in section 20 of this Act: Provided, however, That no loan program level authorized in such section may be increased more than 25 per centum by any such transfers: Provided further, That the Administrator is not authorized to transfer immediate participation loan levels to deferred participation (guaranteed) loan levels except that any transfers shall be effective only to the extent approved in advance by the Appropriations Committees of the United States Senate and of the House of Representatives of the United States.

(E) For purposes of this paragraph the term 'non-Federal sources' shall include, but not be limited to, State and local government funds (including the proceeds from tax-exempt obligations of such governments), and funds derived from private financial institutions or private equity sources. In no event shall such term include funds derived directly from any grant or loan made, guaranteed or insured by the Federal Government: Provided however, for purposes of this paragraph, Federal funds received by a state or local government or local industrial development agency will be considered funds that are derived from a state or local government source.

(4) The rate of interest on financings made on a deferred basis shall be legal and reasonable but shall not exceed a rate prescribed by the Administration, and the rate of interest for the Administration's share of any direct or immediate participation loan shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 per centum [, and an additional amount as determined by the Administration, but not to exceed 1 per centum per annum]: Provided, That for those loans to assist any public or private organization for the handicapped or to assist

any handicapped individual as provided in paragraph (10) of this subsection, the interest rate shall be 3 per centum per annum.

* * * * *

(6) All loans made under this subsection shall be of such sound value or so secured as reasonably to assure repayment: *Provided, however, That—*

(A) for loans to assist any public or private organization or to assist any handicapped individual as provided in paragraph (10) of this subsection *or for loans to any small business concern as provided in paragraph (11) of this subsection*, any reasonable doubt shall be resolved in favor of the applicant;

* * * * *

(16)(A) *No immediate participation loan may be made pursuant to this subsection unless the Administration determines that the applicant has given reasonable assurance that it will create employment opportunities within a two-year period after all loan proceeds are disbursed.*

(B) *Immediate participation loan funds under subsection (a) shall be allocated to the Administration's district offices at least quarterly each fiscal year. The amount of such allocation shall be based solely upon the average total number of unemployed workers residing within each district area as a percentage of the average total unemployed work force nationwide for the immediately preceding fiscal quarter, or for the most recent fiscal quarter for which such statistics are available.*

(C) *Immediate participation loans authorized by subsection (11) shall be extended on a priority basis within each of the Administration's designated district areas to those qualified applicants located in or near a labor surplus area (as defined pursuant to Defense Manpower Policy 4B [32 CFR Chapter 1] or any successor policy).*

(D) *During the last thirty calendar days of each fiscal year quarter the Administration may make an immediate participation loan to any qualifying small business within the district.*

(17)(A) *Any loan made under this subsection (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) may, upon the joint election of the borrower, Administration, and lender, as the case may be, provide for the payment of interest only, during the—*

(i) *first two years of its term if such term is at least eight years;*

(ii) *first three years of its term if such term is at least ten years; and*

(iii) *first four years of its term if such term is at least fifteen years.*

At the conclusion of the period of interest-only payments, the loan agreement shall provide for amortization of the loan principal in equal payments of principal and interest during the remainder of the terms of the loan.

(B) *with respect to loans made under this subparagraph, a bank or lending institution may charge, in addition to any interest, fee, or service charge otherwise permissible pursuant to this Act and rele-*

vant regulations, promulgated pursuant thereto, a one-time fee of 1 per centum of the total amount of such loan, which amount may be paid from the proceeds of such loan.

(b) The Administration also is empowered to the extent and in such amounts as provided in advance in appropriation Acts—

(1)(A) * * *

* * * * *

“(2) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis) as the Administration may determine to be necessary or appropriate to any small business concern or *small agricultural cooperative* located in an area affected by a disaster, if the Administration determines that the concern or the cooperative has suffered a substantial economic injury as a result of such disaster and if such disaster constitutes—

(A) a major disaster, as determined by the President under the Act entitled “An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes”, approved September 30, 1950, as amended (42 U.S.C. 1855-1855g); or

(B) as natural disaster, as determined by the Secretary of Agriculture pursuant to the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961); or

(C) a disaster, as determined by the Administrator of the Small Business Administration; or

(D) if a disaster declaration has been issued pursuant to subsection (A), (B), or (C), the Governor of a State in which a disaster has occurred may certify to the Small Business Administration that small business concerns or *small agricultural cooperatives* have suffered economic injury as a result of such disaster and (2) are in need of financial assistance with is not available on reasonable terms in the disaster stricken area. Upon receipt of such certification, the Administration may then make such loans as would have been available under this paragraph if a disaster declaration had been issued.

Provided, That no loan or guarantee shall be extended pursuant to this paragraph (2) unless the Administration finds that the applicant is not able to obtain credit elsewhere[.] ;

“(3) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in effecting *continuation of* additions to, alterations in, or reestablishment in the same or a new location of its plant, facilities, or methods of operation made necessary by direct action of the Federal Government or as a consequence of Federal Government action or to meet requirement or restrictions imposed on such concern under any Federal law heretofore or hereafter enacted or any State law enacted in conformity therewith, or any regulation or order of a duly authorized Federal, State, regional, or local agency issued in conformity with such Federal law, if the Administration determines that such concern is likely to suffer sub-

stantial economic injury or be unable to market a product without assistance under this paragraph. *Provided*, That the maximum loan made to any small business concern under this paragraph shall not exceed \$500,000 and the amount thereof shall be based solely on a determination made on each application: *Provided further*, That no loan or guarantee shall be extended unless the Administration finds that the application is unable to obtain credit elsewhere. *For the purpose of this paragraph, the impact of the 1983 Payment-in-Kind Land Diversion program, or any successor Payment-in-Kind program with a similar impact on the small business community, shall be deemed to be a consequence of Federal Government action; and*

(4) to make such loans (either directly or in cooperation with banks or other lending institutions through agreement to participate on an immediate or deferred basis) as the Administration may determine to be necessary to assist, or refinance all or part of the existing indebtedness of (specifically including any direct loans under section 7(a) of this act which were made to small businesses affected by currency fluctuations and exchange freezes), any small business concern located in an area of economic dislocation that is the result of the drastic fluctuation in the value of the currency of a country contiguous to the United States and adjustments in the regulation of its monetary if such concern is unable to obtain credit elsewhere. The Governor of a State may certify to the Administration (A) that small business concerns within the State have suffered substantial economic injury as a result of such economic dislocation, and (B) that such concerns are in need of financial assistance which is not available on reasonable terms. Such economic dislocations must be of such magnitude that without the benefit of loans provided hereunder a significant number of otherwise financially sound small businesses in the impacted regions or business sectors would either become insolvent or be unable to return quickly to their former level of operation. No loan made hereunder shall exceed \$100,000, nor shall the proceeds thereof be used to reduce the exposure of any other lender. The Administration may permit deterral of payment of principal and interest for one year on loans made hereunder.

(c)(1) * * *

* * * * *

(4) Notwithstanding the provisions of any other law, the interest rate on the Federal share of any loan made under subsection (b) shall be—

(A) in the case of a homeowner unable to secure credit * * *

* * * * *

(D) in the case of a business concern able to obtain credit elsewhere, the rate prescribed by the Administration but not in excess of the rate prevailing in private market for similar loans and not more than the rate prescribed by the Administration as the maximum interest rate for deferred participation (guaranteed) loans under section 7(a) of this Act. Loans under this subparagraph shall be limited to a maximum term of three years.

【Such loans, subject to the reductions required by subparagraphs (A) and (B) of paragraph (1), shall be in amounts equal to 100 percent of loss if the applicant is a homeowner and 85 percent of loss if the applicant is a business or otherwise. The interest rates for loans made under paragraphs (1) and (2), as determined pursuant to this paragraph (4), shall be the rate of interest which is in effect on the date the disaster commenced: *Provided*, That no loan under paragraphs (1) and (2) shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis, if the total amount outstanding and committed to the borrower under this subsection would exceed \$500,000 for each disaster unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the \$500,000 limitation.】

*Such loans, subject to the reductions required by subparagraphs (A) and (B) of paragraph 7(b)(1), shall be in amounts equal to 100 per centum of loss if the applicant is a homeowner and 85 per centum of loss if the applicant is a business or otherwise. The interest rates for loans made under paragraphs 7(b) (1) and (2), as determined pursuant to this paragraph (4), shall be the rate of interest which is in effect on the date the disaster commenced: *Provided*, That no loan under paragraphs 7(b) (1) and (2) shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis, if the total amount outstanding and committed to the borrower under subsection 7(b) would exceed \$500,000 for each disaster unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the \$500,000 limitation. Employees of concerns sharing a common business premises shall be aggregated in determining "major source of employment" status for non-profit applicants owning such premises.*

(5) Notwithstanding the provisions of any other law, the interest rate on the Federal share of any loan made under subsection (b)(1) on account of a disaster commencing on or after October 1, 1982 shall be—

(A) in the case of a homeowner unable to secure credit elsewhere, the rate prescribed by the Administration but not more than one-half the rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans plus an additional charge of not to exceed 1 per centum per annum as determined by the Administrator, and adjusted to the nearest one-eighth of 1 per centum, but not to exceed 4 per centum per annum;

(B) in the case of a homeowner able to secure credit elsewhere, the rate prescribed by the Administration but not more than the rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the

United States with remaining periods to maturity comparable to the average maturities of such loans plus an additional charge of not to exceed 1 per centum per annum as determined by the Administrator, and adjusted to the nearest one-eighth of 1 per centum, but not to exceed 8 per centum per annum;

(C) in the case of a business concern unable to obtain credit elsewhere, not to exceed 4 per centum per annum;

(D) in the case of a business concern able to obtain credit elsewhere, the rate prescribed by the Administration but not in excess of the lowest of (i) the rate prevailing in private market for similar loans, (ii) the rate prescribed by the Administration as the maximum interest rate for deferred participation (guaranteed) loans under section 7(a) of this Act, or (iii) 8 per centum per annum. Loans under this subparagraph shall be limited to a maximum term of three years.

(6) Notwithstanding the provisions of any other law, such loans, subject to the reductions required by subparagraphs (A) and (B) of paragraph 7(b)(1), shall be in amounts equal to 100 per centum of loss. The interest rates for loans made under paragraphs 7(b) (1) and (2), as determined pursuant to paragraph (5), shall be the rate of interest which is in effect on the date the disaster commenced: Provided, That no loan under paragraphs 7(b) (1) and (2) shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis, if the total amount outstanding and committed to the borrower under subsection 7(b) would exceed \$500,000 for each disaster unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the \$500,000 limitation: Provided further, That the Administration, subject to the reductions required by subparagraphs (A) and (B) of paragraph 7(b)(1), shall not reduce the amount of eligibility for any homeowner on account of loss of real estate to less than \$100,000 for each disaster nor for any homeowner or lessee on account of loss of personal property to less than \$20,000 for each disaster, such sums being in addition to any eligible refinancing. With respect to any loan which is outstanding on the date of enactment of this paragraph and which was made on account of a disaster commencing on or after October 1, 1982, the Administrator shall make such change in the interest rate on the balance of such loan as is required herein effective as of the date of enactment.

* * * * *

(e) The Administration also is empowered to make loans (either directly or in cooperation with banks or other lenders through agreements to participate on an immediate or deferred basis) to assist any firm to adjust to changed economic conditions resulting from increased competition from imported articles, but only if (1) an adjustment proposal of such firm has been certified by the Secretary of Commerce pursuant to the Trade Expansion Act of 1962,

(2) the Secretary has referred such proposal to the Administration under that Act and the loan would provide part or all of the financial assistance necessary to carry out such proposal, and (3) the Secretary's certification is in force at the time the Administration makes the loan. With respect to loans made under this subsection the Administration shall apply the provisions of sections 314, 315, 316, 318, 319, and 320 of the Trade Expansion Act of 1962 as though such loans had been made under section 314 of that Act.】

* * * * *

【(h)(1) The Administration also is empowered, where other financial assistance is not available on reasonable terms, to make such loans (either directly or in cooperation with Banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate—

【(A) to assist any public or private organization—

【(i) which is organized under the laws of the United States or of any State, operated in the interest of handicapped individuals, the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual;

【(ii) which complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and

【(iii) which, in the production of commodities and in the provision of services during any fiscal year in which it receives financial assistance under this subsection, employs handicapped individuals for less than 75 per centum of the man-hours required for the production or provision of the commodities or services; or

【(B) to assist any handicapped individual in establishing, acquiring, or operating a small business concern.

【(2) The Administration's share of any loan made under this subsection shall not exceed \$350,000, nor may any such loan be made if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established by section 4(c)(1)(B) of this Act would exceed \$350,000. In agreements to participate in loans on a deferred basis under this subsection, the Administration's participation may total 100 per centum of the balance of the loan at the time of disbursement. The Administration's share of any loan made under this subsection shall bear interest at the rate of 3 per centum per annum. The maximum term of any such loan, including extensions and renewals thereof, may not exceed fifteen years. All loans made under this subsection shall be of such sound value or so secured as reasonably to assure repayment: *Provided, however,* That any reasonable doubt shall be resolved in favor of the applicant.

【(3) For purposes of this subsection, the term "handicapped individual" means a person who has a physical, mental, or emotional impairment, defect, ailment, disease, or disability of a permanent nature which in any way limits the selection of any type of employ-

ment for which the person would otherwise be qualified or qualifiable.

[(i)(1) The Administration also is empowered to make, participate (on an immediate basis) in, or guarantee loans, repayable in not more than fifteen years, to any small business concern, or to any qualified person seeking to establish such a concern, when it determines that such loans will further the policies established in section 2(b) of this Act, with particular emphasis on the preservation or establishment of small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals, or owned by low-income individuals: *Provided, however,* That no such loans shall be made, participated in, or guaranteed if the total of such Federal assistance to a single borrower outstanding at any one time would exceed \$100,000. The Administration may defer payments on the principal of such loans for a grace period and use such other methods as it deems necessary and appropriate to assure the successful establishment and operation of such concern. The Administration may, in its discretion, as a condition of such financial assistance, require that the borrower take steps to improve his management skills by participating in a management training program approved by the Administration: *Provided, however,* That any management training program so approved must be of sufficient scope and duration to provide reasonable opportunity for the individuals served to develop entrepreneurial and managerial self-sufficiency.

[(2) The Administration shall encourage, as far as possible, the participation of the private business community in the program of assistance to such concerns, and shall seek to stimulate new private lending activities to such concerns through the use of the loan guarantees, participations in loans, and pooling arrangements authorized by this subsection.

[(3) To insure an equitable distribution between urban and rural areas for loans between \$3,500 and \$100,000 made under this subsection, the Administration is authorized to use the agencies and agreements and delegations developed under title III of the Economic Opportunity Act of 1964, as amended, as it shall determine necessary.

[(4) The Administration shall provide for the continuing evaluation of programs under this subsection, including full information on the location, income characteristics, and types of businesses and individuals assisted, and on new private lending activity stimulated, and the results of such evaluation together with recommendations shall be included in the report required by section 10(a) of this Act.

[(5) Loans made pursuant to this subsection (including immediate participation in and guarantees of such loans) shall have such terms and conditions as the Administration shall determine, subject to the following limitations—

[(A) there is reasonable assurance of repayment of the loan;

[(B) the financial assistance is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs;

[(C) the amount of the loan, together with other funds available, is adequate to assure completion of the project or achievement of the purposes for which the loan is made;

[(D) the loan bears interest at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (ii) such additional charge, if any, toward covering other costs of the program as the Administration may determine to be consistent with its purposes: *Provided, however,* That the rate of interest charged on loans made in redevelopment areas designated under the Public Works and Economic Development Act of 1965 (42 U.S.C. 3108 et seq.) shall not exceed the rate currently applicable to new loans made under section 201 of that Act (42 U.S.C. 3142); and

[(E) fees not in excess of amounts necessary to cover administrative expenses and probable losses may be required on loan guaranties.

[(6) The Administration shall take such steps as may be necessary to insure that, in any fiscal year, at least 50 per centum of the amounts loaned or guaranteed pursuant to this subsection are allotted to small business concerns located in urban areas identified by the Administration as having high concentrations of unemployed or low-income individuals or to small business concerns owned by low-income individuals. The Administration shall define the meaning of low income as it applies to owners of small business concerns eligible to be assisted under this subsection.

[(7) No financial assistance shall be extended pursuant to this subsection where the Administration determines that the assistance will be used in relocating establishments from one area to another if such relocation would result in an increase in unemployment in the area of original location.]

(j)(1) The Administration shall provide financial assistance to public or private organizations to pay all or part of the cost of projects designed to provide technical or management assistance to individuals or enterprises eligible for assistance under sections [(7)(i)] 7(a)(11), 7(j)(10), and 8(a) of this Act, with special attention to small businesses located in areas of high concentration of unemployed or low-income individuals, to small businesses eligible to receive contracts pursuant to section 8(a) of this Act.

(2) Financial assistance under this subsection may be provided for projects, including, but not limited to—

(A) planning and research, including feasibility studies and market research;

(B) the identification and development of new business opportunities;

(C) the furnishing of centralized services with regard to public services and Federal Government programs including programs authorized under sections [(7)(i)] 7(a)(11), 7(j)(10), and 8(a) of this Act;

(D) the establishment and strengthening of business service agencies, including trade associations and cooperatives; and

(E) the furnishing of business counseling, management training, and legal and other related services, with special emphasis

on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing business, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

(3) The Administration shall encourage the placement of subcontracts by businesses with small business concerns located in areas of high concentration of unemployed or low-income individuals, with small businesses owned by low-income individuals, and with small businesses eligible to receive contracts pursuant to section 8(a) of this Act. The Administration may provide incentives and assistance to such businesses that will aid in the training and upgrading of potential subcontractors or other small business concerns eligible for assistance under sections [7(i)] 7(a)(11), 7(j), and 8(a) of this Act.

* * * * *

(8) The General Accounting Office shall provide for an independent and continuing evaluation of programs under sections [7(i)] 7(a)(11), 7(j), and 8(a) of this Act, including full information on, and analysis of, the character and impact of managerial assistance provided, the location, income characteristics, and extent to which private resources and skills have been involved in these programs. Such evaluation together with any recommendations deemed advisable by the Comptroller General shall be reported to the Congress by January 1, 1981, and any time thereafter at the discretion of the Comptroller General.

(9) The Administration shall take such steps as may be necessary and appropriate, in coordination and cooperation with the heads of other Federal departments and agencies, to insure that contracts, subcontracts, and deposits made by the Federal Government or with programs aided with Federal funds are placed in such way as to further the purposes of sections [7(i)] 7(a)(11), 7(j), and 8(a) of this Act.

* * * * *

(10) There * * *

(A) The Program shall—

[(i) assist small business concerns participating in the Program to develop comprehensive business plans with specific business targets, objectives, and goals for correcting the impairment of such concern's ability to compete, as determined for such concern pursuant to section 8(a)(6) of this Act, within a fixed period of time as mutually agreed upon by the applicant and the Administrator prior to acceptance in such program: *Provided*, That not less than one year prior to the expiration of such period, and upon the request of such concern, the Administration shall review such period and may extend such period as necessary and appropriate: *Provided further*, That no determination made under this paragraph shall be considered a

denial of total participation for the purposes of section 8(a)(9) of this Act,]

(i) assist small business concerns participating in the program to develop specific business targets, objectives, and goals for correcting the impairment of such concern's ability to compete, as determined for such concern pursuant to section 8(a)(6) of this Act. Such plan shall contain comprehensive financial marketing and management plans which detail efforts to be made by the SBA and the firm to promote the firm's business development. Every program participant shall be subject to a fixed period of program participation, not in excess of 5 years, as mutually agreed upon by the applicant and the Administration prior to acceptance in the program. Such term shall begin upon the date of award of the firm's first subcontract under the program; Provided, That the determination of the fixed period of time shall take into account the following factors:

(1) degree of economic disadvantage as defined in section 8(a)(6) of this Act;

(2) the number and dollar amount, and the progressively decreasing importance of section 8(a) contract support that it is anticipated will be necessary to promote competitive viability;

(3) the length of time anticipated to be necessary to promote competitive viability;

(4) the degree to which it is anticipated that Advance Payments and Business Development Expense will be necessary to enable the concern to successfully negotiate section 8(a) contracts and the extent to which reliance upon such proceeds will progressively decrease in importance;

(5) the rate at which it is anticipated that a concern will decrease its reliance upon all forms of program support, especially section 8(a) contract support, at the end of its term: Provided, further, That not less than one year prior to the expiration of such period, and upon the request of such concern, the Administration shall review such period and may extend such period no more than two years taking into account the following factors:

(1) the degree of economic disadvantages as defined in section 8(a)(6) of this Act and the extent to which prior participation in the program has overcome such economic disadvantage;

(2) progress toward the financial marketing and management goals developed by the SBA and the firm;

(3) the number and dollar amount of 8(a) contracts received during prior program participation;

(4) the number and dollar amount of non-8(a) contracts;

(5) the length of time in the program;

(6) any extenuating circumstances unique to the firm, including but not limited to, type of industry, geographical location, adverse unforeseen events, involvement in special projects intended to realize additional socio-economic objectives: Provided, further, That no determination made under this paragraph shall be considered a denial of total participation for the purpose of section 8(a)(9) of this Act; nor shall amendment made by this section apply to those firms participating in the program upon the date of enactment.

(11) The Associate Administrator for Minority Small Business and Capital Ownership Development shall be responsible for coordinating and formulating policies relating to Federal assistance

to small business concerns eligible for assistance under section **[7(i)] 7(a)(11)** of this Act and small business concerns eligible to receive contracts pursuant to section 8(a) of this Act.

(k) In carrying out its functions under subsections **[7(i)] 7(a)(11)**, 7(j), and 8(a) of this Act, the Administration is authorized—

* * * * *

[(1)(1)] The Administration also is empowered to make loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator may determine to be necessary or appropriate to assist any small business concern in financing plant construction, conversion, expansion (including acquisition of land for such a plant), or startup, and the acquisition of equipment, facilities, machinery, supplies, or materials to enable such concern to design architecturally or engineer, manufacture, distribute, market, install, or service any of the following energy measures:

[(A)] Solar thermal energy equipment which is either of the active type based upon mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types.

[(B)] Photovoltaic cells and related equipment.

[(C)] A product or service the primary purpose of which is conservation of energy through devices or techniques which increase the energy efficiency of existing equipment, methods of operation, or systems which use fossil fuels, and which is on the energy Conservation Measures List of the Secretary of Energy or which the Administrator determines to be consistent with the intent of this subsection.

[(D)] Equipment the primary purpose of which is production of energy from wood, biological waste, grain, or other biomass source of energy.

[(E)] Equipment the primary purpose of which is industrial cogeneration of energy, district heating, or production of energy from industrial waste.

[(F)] Hydroelectric power equipment.

[(G)] Wind energy conversion equipment.

[(H)] Engineering, architectural, consulting, or other professional services which are necessary or appropriate to aid citizens in using any of the measures described in subparagraphs (A) through (G).

[(Proceeds of loans under this subsection shall not be used primarily for research and development.)]

[(2)] No loan shall be made under this subsection if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established by this Act would exceed \$500,000. No loan made or effected under this subsection directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate basis shall exceed \$350,000.

[(3)] No financial assistance shall be extended pursuant to this subsection unless the financial assistance applied for is not otherwise available on reasonable terms from non-Federal sources.

[(4) No immediate participation may be purchased unless it is shown that a deferred participation is not available; and no loan may be made unless it is shown that a participation is not available.]

[(5) In agreements to participate in loans on a deferred basis under this subsection, the Administration's participation shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.]

[(6) The Administration's share of any loan made under this subsection shall bear interest at the same rate as loans made under subsection (a) of this section. The maximum terms of any such loan, including extensions and renewals, may not exceed fifteen years.]

[(7) All loans made under this subsection shall be of such sound value as reasonably to assure repayment, recognizing that greater risk may be associated with loans made to business concerns in this field: *Provided*, That factors in determining 'sound value' shall include, but not be limited to, quality of the product or service; technical qualifications of the applicant or his employees; sales projections; and the financial status of the business concern: *Provided further*, That such status need not be as sound as that required for loans under subsection (a) of this section.]

[(8)(A) The Administration, after consultation with the Department of Energy and other Federal departments and agencies as the Administrator deems appropriate, shall publish in the Federal Register for public comment not later than sixty days after the date of enactment of this subsection proposed regulations to carry out the provisions of this subsection. The Administration shall make all reasonable efforts to solicit comments from small businesses and shall take into consideration comments submitted regarding such proposed regulations.]

[(B) The administration shall publish final regulations under this subsection not later than one hundred and eighty days after the date of enactment of this subsection.]

[(9) It is the intent of Congress that the paperwork burden and regulatory impact on applicants under this subsection shall be minimized, and that to the maximum extent practicable, the Administrator may rely upon consultation with the Department of Energy and other agencies, upon paid consultants, and upon voluntary public submissions of information to obtain market data, industry sales projections, energy savings, and other economic information needed to carry out the provisions of section 7(l)(1) (D) and (E). Nothing in this subsection shall be construed as precluding the Administrator from using any of his lawful powers to obtain information from applicants.]

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SEC. 15. (a) * * *

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(c)(1) During [fiscal years 1981, 1982, and 1983,] *each of fiscal years 1981 through 1986*, public and private non-for-profit organizations eligible for assistance under section [7(h)] 7(a)(10) of this Act shall be eligible to participate in programs authorized under this

section in an aggregate amount not to exceed \$100,000,000 for each such year: *Provided*, That the Administrator shall monitor and evaluate such participation and in any case where the Administrator and the Executive Director of the Committee for the Purchase from the Blind and Severely Handicapped find that the participation of such organizations has or may cause severe economic injury to for-profit small businesses, the Administrator shall and is hereby authorized to direct and require every agency and department having procurement powers to take such actions as the Administrator and the Executive Director of the Committee for the Purchase from the Blind and Severely Handicapped may deem appropriate to alleviate the economic injury sustained or likely to be sustained by such for-profit small businesses.

(2) The Administration shall, not later than January 1, 1982, of each of fiscal years 1983 through 1986, prepare and transmit to the Senate [Select] Committee on Small Business and the Committee on Small Business of the House of Representatives, a report on the impact of contracts awarded to such organizations on for-profit small businesses.

[(d) For purposes of this section priority shall be given to the awarding of contracts and the placement of subcontracts to small business concerns which shall perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas. Notwithstanding any other provision of law, total labor surplus area set-asides pursuant to Defense Manpower Policy Number 4 (32A C.F.R. Chapter 1) or any successor policy shall be authorized if the Secretary or his designee specifically determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices. As soon as practicable and to the extent possible, in determining labor surplus areas, consideration shall be given to those persons who would be available for employment were suitable employment available. Until such definition reflects such number, the present criteria of such policy shall govern.

[(e) In carrying out small business set-aside programs, departments, agencies, and instrumentalities of the executive branch shall award contracts, and encourage the placement of subcontracts for procurement to the following in the manner and in the order stated:

[(1) concerns which are small business concerns and which are located in labor surplus areas, on the basis of a total set-aside;

[(2) concerns which are small business concerns, on the basis of a total set-aside;

[(3) concerns which are small business concerns and which are located in a labor surplus area, on the basis of a partial set-aside;

[(4) concerns which are small business concerns, on the basis of a partial set-aside.

[(f) After priority is given to the small business concerns specified in subsection (e), priority shall also be given to the awarding of contracts and the placement of subcontracts, on the basis of a total set-aside, to concerns which—

- [(1) are not eligible under subsection (e);
- [(2) are not small business concerns; and
- [(3) will perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas.].

(d) *For purposes of this section priority shall be given to the awarding of contracts and the placement of subcontracts to small business concerns which shall perform a substantial proportion of those contracts and subcontracts in or near areas of concentrated unemployment or underemployment or within labor surplus areas. Notwithstanding any other provision of law, total labor surplus area set-asides pursuant to Defense Manpower Policy Number 4B (32A CFR chapter I) or any successor policy shall be authorized if the head of the procuring Federal agency or his designee specifically determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices. As soon as practicable and to the extent possible, in determining labor surplus areas, consideration shall be given to those persons who would be available for employment were suitable employment available. Until such definition reflects such number, the present criteria of such policy shall govern.*

(e) *In carrying out small business set-aside programs, Federal agencies shall award contracts, and encourage the placement of subcontracts for procurement to the following in the manner and in the order stated:*

(1) *concerns which are small business concerns and which are located in labor surplus areas, on the basis of a total small business-labor surplus area set-aside;*

(2) *concerns which are small business concerns, on the basis of a total small business set-aside;*

(3) *concerns which are small business concerns and which are located in a labor surplus area, on the basis of a partial small business-labor area set-aside; and*

(4) *concerns which are small business concerns, on the basis of a partial small business set-aside.*

(f) *After priority is given to the small business concerns specified in subsection (e), priority also shall be given to the awarding of contracts and the placement of subcontracts, on the basis of a total labor surplus area set-aside, to business concerns which will perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas.*

* * * * *

SEC. 18. (a) The Administration shall not duplicate the work or activity of any other department or agency of the Federal Government, except to those enterprises engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries: *Provided*, That prior to October 1, [1983] 1984, an agricultural enterprise shall not be eligible for loan assistance under paragraph (1) of section 7(b) to repair or replace property other than residences and/or per-

sonal property unless it is declined for, or would be declined for, emergency loan assistance at substantially similar interest rates from the Farmers Home Administration under subchapter III of the Consolidated Farm and Rural Development Act, and nothing contained in this Act shall be construed to authorize any such duplication unless such work or activity is expressly provided for in this Act. If loan applications are being refused or loans denied by such other department or agency responsible for such work or activity due to administrative withholding from obligations or withholding from apportionment, or due to administratively declared moratorium, then, for purposes of this section, no duplication shall be deemed to have occurred.

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SEC. 20. (a) * * *

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[(q) The following program levels are authorized for fiscal year 1984:

[(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make \$195,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make \$15,000,000 in loans as provided in paragraph (10), \$45,000,000 in loans as provided in paragraph (11), and \$10,000,000 in loans as provided in paragraph (12).

[(2) For the programs authorized by 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make \$3,140,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make \$5,000,000 in loans as provided in paragraph (10), \$460,000,000 in loans as provided in paragraph (11), \$17,000,000 in loans as provided in paragraph (12), and \$350,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 503.

[(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make \$35,000,000 in direct purchases of debentures and preferred securities and to make \$160,000,000 in guarantees of debentures.

[(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$1,400,000,000.

[(5) For the program authorized by section 7(b)(3) of this Act, the Administration shall not enter into any loans, guarantees, or other obligations or commitments.

[(6) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$250,000,000.

[(7) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out

of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.

[(r) There are authorized to be appropriated to the Administration for fiscal year 1984, \$804,000,000. Of such sum, \$531,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (q), paragraphs (1) through (3); \$30,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; \$4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and \$239,000,000 shall be available for salaries and expenses of the Administration of which amount—

[(1) \$12,526,000 shall be available for technical assistance; of which amount not less than \$2,318,000 shall be available for technical assistance, and of this amount not less than \$903,000 shall be used to pay for the continued development of a procurement automated source system, and not less than \$175,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small business.

[(2) \$32,138,000 shall be available for management assistance of which amount not less than \$1,214,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

[(3) \$8,000,000 shall be available for economic research and analysis and advocacy, of which amount not less than \$2,420,000 shall be used to employ at least sixty-nine staff people for the office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than \$1,400,000 shall be used to develop an external small business data bank and small business index; not less than \$1,350,000 shall be used for research; and not less than \$1,000,000 shall be used to pay for development and maintenance of an indicative small business data base comprised of names and addresses and related information.

[(4) \$30,250,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, \$13,655,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

[(5) \$10,546,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document

tracking system, and to the installation of terminals in Administration field offices.

[(6) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for carrying out the provisions and purposes of the small business development center program in section 21.

[(s) The Administrator may transfer no more than 10 per centum of each of the total levels for salaries and expenses authorized in paragraphs (1) through (5) of section 20(r) of this Act: *Provided, however, That no level authorized in such paragraph may be increased more than 20 per centum by any such transfers.*]

(q) *The following program levels are authorized for fiscal year 1984:*

(1) *For the programs authorized by section 7(a) of this Act, the Administration is authorized to make \$295,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make \$30,000,000 in loans to Vietnam veterans, \$15,000,000 in loans as provided in paragraph (10), \$135,000,000 in loans as provided in paragraph (11), and \$10,000,000 in loans as provided in paragraph 12: Provided, however, That of such sums, the Administration is authorized to make direct loans only to those eligible for loans under subsection 7(a)(10).*

(2) *For the programs authorized by section 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make \$2,930,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make \$5,000,000 in loans as provided in paragraph (10), \$60,000,000 in loans as provided in paragraph (11), \$15,000,000 in loans as provided in paragraph (12), and \$250,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 503.*

(3) *For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make \$70,000,000 in direct purchases of debentures and preferred securities and to make \$250,000,000 in guarantees of debentures.*

(4) *For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$1,500,000,000.*

(5) *For the program authorized by sections 7(b)(3) and 7(b)(4) of this Act, the Administration is authorized to make \$100,000,000 in direct loans and for the programs authorized by sections 7(b)(1) and 7(b)(2) of this Act, the Administration is authorized to make \$440,000,000 in direct loans.*

(6) *For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed the sum of (A) \$250,000,000 less amounts approved and obligated for guarantees in fiscal year 1983.*

(7) *There are hereby authorized to be appropriated sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of*

sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.

(r) There are authorized to be appropriated to the Administration for fiscal year 1984, \$1,439,700,000. Of such sum, \$1,112,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (q), paragraphs (1) through (3); \$17,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; \$4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and \$313,400,000 shall be available for salaries and expenses of the Administration of which amount—

(1) \$13,526,000 shall be available for procurement and technical assistance; of which amount not less than \$2,318,000 shall be available for technical assistance, and of this amount not less than \$903,000 shall be used to pay for the continued development of a procurement automated source system, and not less than \$175,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses.

(2) \$37,138,000 shall be available for management assistance, of which amount not less than \$1,214,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist, of which up to \$4,000,000 shall be used for grants or loans authorized by section 22(b)(2) of this Act and not more than \$1,000,000 shall be used for programs authorized by section 22(b)(4) of this Act.

(3) \$8,000,000 shall be available for economic research and analysis and advocacy, of which amount not less than \$2,420,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than \$1,400,000 shall be used to develop an external small business data bank and small business index; not less than \$1,350,000 shall be used for research; and not less than \$1,000,000 shall be used to pay for development and maintenance of an indicative small business data base comprised of names and addresses and related information.

(4) \$30,250,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, \$13,655,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

(5) \$10,546,000 shall be available for program evaluation and data management with priority given to the development of an

automated internal Administration management data base, to the enhancement of the Administration's document tracking system, and to the installation of terminals in Administration field offices.

(6) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for carrying out the provisions and purposes of the small business development center program in section 21.

(s) The Administrator may transfer no more than 10 per centum of each of the total levels for salaries and expenses authorized in paragraphs (1) through (5) of section 20(r) of this Act: Provided, however, That no level authorized in such paragraphs may be increased more than 20 per centum by any such transfers.

(t) The following program levels are authorized for fiscal year 1985:

(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make \$295,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make \$30,000,000 in loans to Vietnam Veterans, \$15,000,000 in loans as provided in paragraph (10), \$135,000,000 in loans as provided in paragraph (11), and \$10,000,000 in loans as provided in paragraph 12: Provided, however, that of such sums, the Administration is authorized to make direct loans only to those eligible for loans under subsection 7(a)(10).

(2) For the programs authorized by section 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make \$4,010,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make \$6,000,000 in loans as provided in paragraph (10), \$80,000,000 in loans as provided in paragraph (11), \$20,000,000 in loans as provided in paragraph (12), and \$340,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 503.

(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make \$70,000,000 in direct purchases of debentures and preferred securities and to make \$250,000,000 in guarantees of debentures.

(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$1,500,000,000.

(5) For the program authorized by section 7(b)(3) of this Act, the Administration is authorized to make \$100,000,000 in direct loans.

(6) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$250,000,000.

(7) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such

sums as may be necessary and appropriate for such administrative expenses.

(u) There are authorized to be appropriated to the Administration for fiscal year 1985, \$1,351,300,000. Of such sum, \$999,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (t), paragraphs (1) through (3); \$17,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; \$4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and \$331,300,000 shall be available for salaries and expenses of the Administration of which amount—

(1) \$13,526,000 shall be available for procurement and technical assistance; of which amount not less than \$2,318,000 shall be available for technical assistance, and of this amount not less than \$903,000 shall be used to pay for the continued development of a procurement automated source system, and not less than \$175,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses.

(2) \$37,138,000 shall be available for management assistance, of which amount not less than \$1,214,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist, of which amount up to \$2,000,000 shall be used for grants or loans authorized by section 22(b)(2) of this Act and not more than \$1,000,000 shall be used for programs authorized by section 22(b) of this Act.

(3) \$8,000,000 shall be available for economic research and analysis and advocacy, of which amount not less than \$2,420,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than \$1,400,000 shall be used to develop an external small business data bank and small business index; not less than \$1,350,000 shall be used for research; and not less than \$1,000,000 shall be used to pay for development and maintenance of an indicative small business data base comprised of names and addresses and related information.

(4) \$30,250,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, \$13,655,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

(5) \$10,546,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking

system, and to the installation of terminals in Administration field offices.

(6) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for carrying out the provisions and purposes of the small business development center program in section 21.

(v) The Administrator may transfer no more than 10 per centum of each of the total levels for salaries and expenses authorized in paragraphs (1) through (5) of section 20(u) of this Act: Provided, however, That no level authorized in such paragraphs may be increased more than 20 per centum by any such transfers.

* * * * *

SEC. 22. (a) There is established within the Administration an Office of International Trade which shall implement the programs pursuant to this section.

(b) The Office shall promote sales opportunities for small business goods and services abroad. To accomplish this objective the office shall—

(1) provide small businesses with access to current and complete export information by—

(A) making available, at the Administration's regional offices through cooperation with the Department of Commerce, export information, including, but not limited to, the worldwide information and trade system and world trade data reports;

(B) maintaining a current list of financial institutions that finance export operations;

(C) maintaining a current directory of all Federal, regional, State and private sector programs that provide export information and assistance to small businesses; and

(D) preparing and publishing such reports as it determines to be necessary concerning market conditions, sources of financing, export promotion programs, and other information pertaining to the needs of small business exporting firms so as to insure that the maximum information is made available to small businesses in a readily usable form;

[(2) encourage through cooperation with the Department of Commerce, greater small business participation in trade fairs, shows, missions, and other domestic and overseas export development activities of the Department of Commerce; and]

(2) encourage greater small business participation in trade fairs, shows, missions and other domestic and overseas export development activities by providing grants or loans to small businesses to defray costs associated with such events: Provided, however, that no more than \$15,000 in the case of overseas events, and no more than \$2,000 in the case of domestic events, may be provided to any company in any one fiscal year.

(3) facilitate decentralized delivery of export information and assistance to small businesses by assigning full-time export development specialists to each Administration regional office and assigning primary responsibility for export development to one person in each district office, Such specialists shall—

(A) assist small businesses in obtaining export information and assistance from other Federal departments and agencies;

(B) maintain a current directory of all programs which provide export information and assistance to small businesses within the region;

(C) encourage financial institutions to develop and expand programs for export financing;

(D) provide advice to Administration personnel involved in granting loans, loan guarantees, and extensions and revolving lines of credit, and providing other forms of assistance to small businesses engaged exports; and

(E) within one hundred and eighty days of their appointment, participate in training programs designed by the Administrator, in conjunction with the Department of Commerce and other Federal departments and agencies, to study export programs and to examine small businesses' needs for export information and assistance.

(4) the Administration is authorized to cosponsor or otherwise participate in domestic and overseas events whose primary purpose is to encourage export of small business goods and services abroad, including but not limited to, conferences, missions, trade fairs and other export development activities sponsored by other Federal departments and agencies.

* * * * *

SEC. 26. Unless otherwise specifically provided by law, the Administration shall—

(a) within ninety days after the effective date of this Act, and any subsequent amendments to this Act or the Small Business Investment Act, publish in the *Federal Register* proposed rules and regulations implementing such laws; and

(b) within one-hundred and eighty days after the effective date of this Act, and any subsequent amendments to this Act or the Small Business Investment Act, publish in the *Federal Register* final rules and regulations implementing such laws.

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SMALL BUSINESS INVESTMENT ACT OF 1958

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TITLE III—SMALL BUSINESS INVESTMENT COMPANIES

ORGANIZATION OF SMALL BUSINESS INVESTMENT COMPANIES

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CAPITAL REQUIREMENTS

SEC. 302(a). The combined private paid-in capital and paid-in surplus of any company licensed pursuant to sections 301(c) and (d) of this Act shall not be less than \$150,000: *Provided, however, That the combined private paid-in capital and paid-in surplus of any*

company licensed on or after October 1, 1979 pursuant to sections 301(c) and (d) of this Act shall be not less than \$500,000. In all cases, such capital and surplus shall be adequate to assure a reasonable prospect that the company will be operated soundly and profitably, and managed actively and prudently in accordance with its articles. *With respect to a company licensed pursuant to section 301(d), such capital and surplus shall include funds obtained directly or indirectly from an agency or department of a State government or the Federal Government (excluding the Administration) for purposes of section 303 leveraging, provided that such funds:*

(1) are not taken into account with respect to meeting the requirements established by the preceding two sentences; and

(2) were invested in or were legally committed to be invested in such company prior to July 29, 1980.

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TITLE IV—GUARANTEES

PART A—LEASE GUARANTEES

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POLLUTION CONTROL

SEC. 404. (a) * * *

(b) The Administration may, whenever it determines that small business concerns are or are likely to be at an operational or financing disadvantage with other business concerns with respect to the planning, design, or installation of pollution control facilities, or the obtaining of financing therefor (including financing by means of revenue bonds issued by States, political subdivisions thereof, or other public bodies), guarantee the payment of rentals or other amounts due under qualified contracts. Any such guarantee may be made or effected either directly or in cooperation with any qualified surety company or other qualified company through a participation agreement with such company. The foregoing powers shall be subject, however, to the following restrictions and limitations:

(1) Notwithstanding any other law, rule, or regulation or fiscal policy to the contrary, the guarantee authorized in the case of pollution control facilities or property [may] *shall* be issued when such property is acquired by the use of proceeds from industrial revenue bonds which provide the holders interest which is exempt from Federal income tax, *and the Administration is expressly prohibited from denying such guarantee due to the property being so acquired.*

* * * * *

AUTHORITY OF THE ADMINISTRATION

SEC. 411. (a) * * *

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“(h) The Administration shall administer this Part on a prudent and economically justifiable basis and establish such fee or fees for

small business concerns and premium or premiums for sureties as it deems reasonable and necessary, to be payable at such time and under such conditions as may be determined by the Administration. *The Administration shall not establish eligibility criteria based on the amount of the bond, subject to the limitation in subsections (a) and (c), or upon a percentage related to previously successfully completed contracts. The Administration shall evaluate each application on a case-by-case basis and based solely thereon shall determine the appropriate guarantee.*

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TITLE V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

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SEC. 502. The Administration may, in addition to its authority under section 501, make loans for *working capital*, plant acquisition, construction, conversion or expansion, including the acquisition of land, the State and local development companies, and such loans may be made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis: *Provided, however,* That the foregoing powers shall be subject to the following restrictions and limitations:

(1) The proceeds of any such loan shall be used solely by such borrower to assist an identifiable small-business concern and for a sound business purpose approved by the Administration.

(2) Loans made by the Administration under this section shall be limited to \$500,000 for each such identifiable small-business concern.

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DEVELOPMENT COMPANY DEBENTURES

SEC. 503. (a) * * *

(b) No guarantee may be made with respect to any debenture under subsection (a) unless—

(1) such debenture is issued for the purpose of making one or more loans to small business concerns, the proceeds of which shall be used by such concern for the purposes set forth in section 502;

(2) necessary funds for making such loans are not available to such company from private sources on reasonable terms;

(3) the interest rate on such debenture is not less than the rate of interest determined by the Secretary of the Treasury for purposes of section 303(b);

(4) the aggregate amount of such debenture does not exceed the amount of loans to be made from the proceeds of such debenture (other than any excess attributable to the administration costs of such loans);

(5) the amount of any loan to be made from such proceeds does not exceed an amount equal to 50 percent of the cost of the project with respect to which such loan is made[; and] : *Provided, That the Administration shall not use the source or*

nature of the funds constituting the remaining per centum of the project cost as a criteria to approve or reject such guarantee; and

(6) the Administration approves each loan to be made from such proceeds.

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